

Composite of
TITLE II AND TITLE XVIII
of the
SOCIAL SECURITY ACT

And
H.R. 5710
THE "SOCIAL SECURITY AMENDMENTS OF 1967"
AS INTRODUCED ON FEBRUARY 20, 1967



**DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION**

Bureau of Retirement and
Survivors Insurance
Division of Technical Services

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1967

INTRODUCTION

This composite act has been prepared to reflect the changes which will be made in titles II and XVIII of the Social Security Act, and in certain pertinent sections of the Internal Revenue Code of 1954 and the Railroad Retirement Act of 1937, as amended, if H.R. 5710, as introduced by Mr. Mills on February 20, 1967, is enacted into law.

The materials used to prepare this composite act consist of the 1966 edition of the Compilation of the Social Security Laws, compiled by the Social Security Administration, portions of the Administration issued looseleaf edition of the Social Security Act (Law and Regulations Issues No. 13 and No. 16), and H.R. 5710.

In this composite act, provisions which will be deleted or repealed are stricken through. Provisions which are to be added are identifiable by the fact that they are in larger sized type and generally double spaced, or they are placed in the margins. In addition, each deletion or addition is accompanied by a reference in the margin to the appropriate section of the amending bill. The effective dates of the proposed changes are shown in the footnotes. Section references in the footnotes, unless otherwise indicated, are to sections of H.R. 5710.

Division of Technical Services
Regulations and Rulings Branch

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TITLE II OF THE ACT

TITLE II

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**Federal ~~Old Age~~, Survivors, and
Disability Insurance Benefits**

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retirement

parent's

or Parent's

revealed

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TITLE II—FEDERAL ~~OLD AGE~~, SURVIVORS, AND
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RETIREMENT

Federal ~~Old Age~~ and Survivors Insurance Trust Fund and
Federal Disability Insurance Trust Fund

Retirement

Section 201. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "~~Federal Old Age and Survivors Insurance Trust Fund~~". The Federal ~~Old Age and Survivors Insurance Trust Fund~~ shall consist of the securities held by the Secretary of the Treasury for the ~~Old Age Reserve Account~~ and the amount standing to the credit of the ~~Old Age Reserve Account~~ on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal ~~Old Age and Survivors Insurance Trust Fund~~, and, in addition, such amounts as may be appropriated to, or deposited in, the Federal ~~Old Age and Survivors Insurance Trust Fund~~ as hereinafter provided. There is hereby appropriated to the Federal ~~Old Age and Survivors Insurance Trust Fund~~ for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

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(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of the Internal Revenue Code of 1939 (and covered into the Treasury) which are deposited into the Treasury by collectors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of such Code which are deposited into the Treasury by collectors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of such Code with respect to wages (as defined in section 1426 of such Code), and by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1954 with respect to

wages (as defined in section 3121 of such Code) reported to the Commission of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 after December 31, 1950, or to the Secretary of the Treasury or his delegates pursuant to subtitle F of the Internal Revenue Code of 1954 after December 31, 1954, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 (other than sections 3101(b) and 3111(b)) to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports, less the amounts specified in clause (1) of subsection (b) of this section; and

(4) the taxes imposed by subchapter E of chapter 1 of the Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of such Code), and by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1954 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or to the Secretary of the Treasury, or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter (other than section 1401(b)) to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns, less the amounts specified in clause (2) of subsection (b) of this section.

Retirement

The amounts appropriated by clauses (3) and (4) shall be transferred from time to time from the general fund in the Treasury to the Federal Old Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred from time to time from the general fund in the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of this subsection, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection.

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund

shall consist of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

§ 109(a)(1)

(1) ~~1 1/2~~ of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of ~~1954~~ and 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and so reported,

(A)

§ 109(a)(2)

1954, (B)

§ 109(a)(3)

and before January 1, 1968,

(C) 0.85 of 1 per centum of the wages (as so defined)

§ 109(a)(4)

paid after December 31, 1967, and before January 1, 1969, and so reported, and (D) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1968, and so reported,

which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

§ 109(b)(1)

(A)

§ 109(b)(2)

(2) ~~3/4~~ of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, ~~1966~~, and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965,

1966, (B)

and before January 1, 1968, (C) 0.6375 of 1

per centum of the amount of self-employment income

(as so defined) so reported for any taxable year begin-

§ 109(b)(3)

ning after December 31, 1967, and before January 1, 1969, and (D) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1968.

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which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

(c) With respect to the ~~Federal Old Age~~ and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (hereinafter in this title called the "Trust Funds") there is hereby created a body to be known as the Board of Trustees of the Trust Funds (hereinafter in this title called the "Board of Trustees") which Board of Trustees shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this title called the "Managing Trustee"). The Commissioner of Social Security shall serve as Secretary of the Board of Trustees. Such Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

April

(1) Hold the Trust Funds;

(2) Report to the Congress not later than the first day of ~~March~~ of each year on the operation and status of the Trust

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Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years;

(3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small;

(4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the ~~old age~~ and survivors insurance and Federal-State unemployment compensation program; and

(5) Review the general policies followed in managing the Trust Funds, and recommend changes in such policies, including necessary changes in the provisions of the law which govern the way in which the Trust Funds are to be managed.

The report provided for in paragraph (2) above shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Funds. Such

retirement

obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Any obligations acquired by the Trust Funds (except public-debt obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Federal ~~Old Age~~ and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be credited to and form a part of the Federal ~~Old Age~~ and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, respectively.

Retirement

(g) (1) (A) There are authorized to be made available for expenditure, out of any or all of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII), such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title and title XVIII for which the Secretary of Health, Education, and Welfare is responsible. During each fiscal year or after the close of such fiscal year (or at both times), the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this title and title XVIII during the appropriate part or all of such fiscal year in order to determine the portion of such costs which should be borne by each of the Trust Funds and shall certify to the Managing Trustee the amount, if any, which should be transferred among such Trust Funds in order to assure that each of the Trust Funds bears its proper share of the costs incurred during such fiscal year for the part of the administration of this title and title XVIII for which the Secretary of Health, Education, and Welfare is responsible. The Managing Trustee is authorized and directed to transfer any such amount (determined under the preceding sentence) among such Trust Funds in accordance with any certification so made.

(B) The Managing Trustee is directed to pay from the Trust Funds into the Treasury the amounts estimated by him which will be expended, out of moneys appropriated from the general funds in the Treasury, during each calendar quarter by the Treasury Department for the part of the administration of this title and title XVIII for which the Treasury Department is responsible and for the administra-

tion of chapters 2 and 21 of the Internal Revenue Code of 1954. Such payments shall be covered into the Treasury as repayment to the account for reimbursement of expenses incurred in connection with such administration of this title and title XVIII and chapters 2 and 21 of the Internal Revenue Code of 1954.

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes imposed under section 3101(a) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1939 and section 3121 of the Internal Revenue Code

of 1954) paid after December 31, 1950. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 and to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal ~~Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund~~ in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

Retirement

(3) Repayments made under paragraph (1) or (2) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(h) Benefit payments required to be made under section 223, and benefit payments required to be made under subsection (b), (c), or (d) of section 202 to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, shall be made only from the Federal Disability Insurance Trust Fund. All other benefit payments required to be made under this title (other than section 226) shall be made only from the Federal ~~Old Age and Survivors Insurance Trust Fund~~.

Retirement

(i) (1) Within the 6-month period after the close of

the fiscal year ending June 30, 1968, and within the

6-month period after the close of each fiscal year thereafter,

116(b)

Retirement

the Secretary of the Treasury shall transfer to the Federal

~~Old Age and Survivors Insurance Trust Fund~~, the Federal

Disability Insurance Trust Fund, and the Federal Hospital
Insurance Trust Fund,

(A) from the Civil Service Retirement and Disability Fund, an amount determined by the Secretary of Health, Education, and Welfare to be equal to the total of the proportionate costs, attributable to the basic pay for Federal service credited pursuant to section 205 (q), of the benefits of all individuals paid at any time during such fiscal year out of each of such Trust Funds, and

(B) from the Foreign Service Retirement and Disability Fund, an amount determined by the Secretary of Health, Education, and Welfare to be equal to the total of the proportionate costs, attributable to the basic salary for Federal service credited pursuant to section 205 (q), of the benefits of all individuals paid at any time during such fiscal year out of each of such Trust Funds, and

§116(b)

(C) the interest on the amount determined under subparagraphs (A) and (B) from the date of payment of such benefits from Trust Funds to the date of such transfer; such rate of such interest for each of such Trust Funds shall be the average of the rates of interest for the months of such fiscal year as determined under the fifth sentence of subsection (d) of this section.

In determining the amount to be transferred under subparagraphs (A) and (B), the Secretary of Health, Education, and Welfare shall take into account adjustments required by overpayments or underpayments made with respect to prior years and benefits paid indirectly through the financial interchange provisions of section 5(k)(2) of the Railroad Retirement Act of 1937.

(2) For purposes of paragraph (1), the proportionate costs, which are attributable to the pay or salary for Federal service credited pursuant to section 205(q), of the benefits of an individual and with respect to which a tax equivalent has been withheld by the Secretary of the Treasury, pursuant to a certification by the Chairman of the Civil Service Commission or the Secretary of State, as the case may be, from his lump-sum credit under Civil Service Retirement or the Foreign Service Act of 1946, shall be the amount of benefits paid (either directly from such Trust Fund or indirectly through the financial interchange provisions of section 5(k)(2) of the Railroad Retirement Act of 1937) on the basis of the wages and self-employment income of such individual multiplied by the fraction—

§ 116(b)

(A) the numerator of which is the dollar amount of the basic pay or salary taken into account in determining such tax equivalent for such individual, and

(B) the denominator of which is the sum of (i) the amount determined under subparagraph (A), plus (ii) the dollar amount of such individual's wages and self-employment income (computed without regard to the basic pay or salary referred to in subparagraph (A)), plus (iii) the dollar amount of compensation of such individual under the Railroad Retirement Act of 1947 which would have been included as wages under the Social Security Act if service as an employee under the Railroad Retirement Act of 1937 after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act.

The tax equivalent with respect to an individual means an amount equal to the taxes which would have been paid (but which have not been paid) under section 3101 of the Internal Revenue Code of 1954 with respect to service after June 30, 1966, of such individual who was subject to Civil Service Retirement (Ch. 83, subch. III of title 5, United States Code) or the Foreign Service Act of 1946 if such individual's basic pay or basic salary, as the case may be, for that service had at that time constituted remuneration for employment under this title.

116(b)

Retirement ~~Old Age~~ and Survivors Insurance Benefit Payments

~~Old Age Insurance Benefits~~

Sec. 202. (a) Every individual who—

- (1) is a fully insured individual (as defined in section 214(a)),
- (2) has attained age 62, and
- (3) has filed application for ~~old age~~ insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65,

retirement

shall be entitled to an ~~old age~~ insurance benefit for each month, beginning with the first month after August 1950 in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies. Except as provided in subsection (q), such individual's ~~old age~~ insurance benefit for any month shall be equal to his primary insurance amount (as defined in section 215(a)) for such month.

Wife's Insurance Benefits

retirement

(b) (1) The wife (as defined in section 216(b) and every divorced wife (as defined in section 216(d)) of an individual entitled to ~~old age~~ or disability insurance benefits, if such wife or such divorced wife—

- (A) has filed application for wife's insurance benefits,
- (B) has attained age 62 or (in the case of a wife) has in her care (individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual,
- (C) in the case of a divorced wife, is not married,
- (D) in the case of a divorced wife, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from such individual, or was receiving substantial contributions from such individual (pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from such individual—

retirement

(i) if he had a period of disability which did not end before the month in which he became entitled to ~~old age~~ or disability insurance benefits, at the beginning of such period or at the time he became entitled to such benefits, or

(ii) if he did not have such a period of disability, at the time he became entitled to ~~old age~~ insurance benefits, and

(E) is not entitled to ~~old age~~ or disability insurance benefits, or is entitled to ~~old age~~ or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection (s)) be entitled to a wife's insurance benefit for each month, beginning with the first month in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs—

- (F) she dies,
- (G) such individual dies.

(H) in the case of a wife, they are divorced and either (i) she has not attained age 62, or (ii) she has attained age 62 but has not been married to such individual for a period of 20 years immediately before the date the divorce became effective,

(I) in the case of a divorced wife, she marries a person other than such individual,

(J) in the case of a wife who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,

(K) she becomes entitled to an old age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(L) such individual is not entitled to disability insurance benefits and is not entitled to old age insurance benefits.

retirement

retirement

~~[(2) Except as provided in subsection (q), such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month.]~~

(2) Except as provided in subsection (q), such wife's

insurance benefit for each month shall be equal to whichever

of the following is the smaller: (A) one-half of the primary

*§ 103(a)

insurance amount of her husband (or, in the case of a di-

vorced wife, her former husband) for such month, or (B)

\$90.

(3) In the case of any divorced wife who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d),

such divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.

Husband's Insurance Benefits

(c) (1) The husband (as defined in section 216(f)), of a currently insured individual (as defined in section 214(b)) entitled to old age or disability insurance benefits, if such husband—

retirement

(A) has filed application for husband's insurance benefits,

(B) has attained age 62,

(C) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual—

*Applies with respect to monthly insurance benefits under title II of the Social Security Act for months after May 1967 (sec. 103(c)).

(i) if she had a period of disability which did not end prior to the month in which she became entitled to ~~old age~~ or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits, or
 (ii) if she did not have such a period of disability, at the time she became entitled to such benefits,

and filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, as the case may be, or, if she did not have such a period, two years after the month in which she became entitled to such benefits, and

(D) is not entitled to ~~old age~~ or disability insurance benefits, or is entitled to ~~old age~~ or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of his wife,

shall be entitled to a husband's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced, or he becomes entitled to an ~~old age~~ or disability insurance benefit, based on

a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to ~~old age~~ insurance benefits.

retirement

(2) The requirement in paragraph (1) that the individual entitled to ~~old age~~ or disability insurance benefits be a currently insured individual, and the provisions of subparagraph (C) of such paragraph, shall (subject to subsection (s)) not be applicable in the case of any husband who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h);

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d); or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any) would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

(3) Except as provided in subsection (q), such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife for such month.

§ 103(b)*

*Applies with respect to monthly insurance benefits under title II of the Social Security Act for months after May 1967 (sec. 103(c)).

(3) Except as provided in subsection (q), such husband's insurance benefit for each month shall be equal to
 *§ 103(b) whichever of the following is the smaller: (A) one-half of the primary insurance amount of his wife for such month, or
 (B) \$90.

Child's Insurance Benefits

(d) (1) Every child (as defined in section 216(e)) of an individual entitled to ~~old age or disability~~ insurance benefits, or of an individual who dies a fully or currently insured individual, if such child—

retirement

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 223(c)) which began before he attained the age of 18, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to ~~old age or disability~~ insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits,

retirement

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding whichever of the following first occurs—

(D) the month in which such child dies, marries, or is adopted (except for adoption by a stepparent, grandparent, aunt, uncle, brother, or sister subsequent to the death of such fully or currently insured individual),

(E) the month in which such child attains the age of 18, but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month,

(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22, or

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

*Applies with respect to monthly insurance benefits under title II of the Social Security Act for months after May 1967 (sec. 103(c)).

retirement

(ii) the month in which he attains the age of 22. Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month.

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father at the time specified in paragraph (1)(C) unless, at such time, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 216(h)(2)(B) or section 216(h)(3) shall, if such individual is the child's father, be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather at the time specified in paragraph (1)(C) if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather.

(5) A child shall be deemed dependent upon his natural or adopting mother at the time specified in paragraph (1)(C) if such mother or adopting mother was a currently insured individual. A child shall also be deemed dependent upon his natural or adopting mother, or upon his stepmother, at the time specified in paragraph (1)(C) if, at such time, (A) she was living with or contributing to the support of such child, and (B) either (i) such child was neither living with nor receiving contributions from his father or adopting father, or (ii) such child was receiving at least one-half of his support from her.

(6) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), (e), (f), (g), or (h) of this section or under section 223(a), or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection, such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection(s), not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 223(a) or this subsection, the preceding provisions of

this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(7) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1) (D) has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of 22 if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs: The first month during no part of which he is a full-time student, the month in which he attains the age of 22, or the first month in which an event specified in paragraph (1) (D) occurs.

(8) For the purposes of this subsection—

(A) A "full-time student" is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations prescribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a "full-time student" if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer.

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An "educational institution" is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(9) In the case of—

retirement

(A) an individual entitled to disability insurance benefits, or
 (B) an individual entitled to ~~old age~~ insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to ~~old age~~ insurance benefits,

a child of such individual adopted after such individual became entitled to such disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1) (C) unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D) was legally adopted by such individual before the end of the 24-month period beginning with the month after the month in which such individual most recently became entitled to disability insurance benefits, but only if—

(i) proceedings for such adoption of the child had been instituted by such individual in or before the month in which began the period of disability of such individual which still exists at the time of such adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or

(ii) such adopted child was living with such individual in such month.

retirement

(10) If an individual entitled to ~~old age~~ insurance benefits (but not an individual included under paragraph (9)) adopts a child after such individual becomes entitled to such benefits, such child shall be deemed not to meet the requirements of clause (i) of paragraph (1) (C) unless such child—

(A) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(B) was legally adopted by such individual before the end of the 24-month period beginning with the month after the month in which such individual became entitled to ~~old age~~ insurance benefits, but only if—

retirement

(i) such child had been receiving at least one-half of his support from such individual for the year before such individual filed his application for old age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to ~~old age~~ insurance benefits, for the year before such period of disability began, and

(ii) either proceedings for such adoption of the child had been instituted by such individual in or before the month in which the individual filed his application for ~~old age~~ insurance benefits or such adopted child was living with such individual in such month.

(11) A child who is a child of an individual under paragraph (1) (C) or (1) (D) of section 216(c) shall be deemed dependent on such individual at the time specified in such paragraph unless at such time such child was receiving regular contributions toward his support from (A) his natural or adopting parent, or his stepparent, or (B) a public or private welfare organization which had placed such child in such individual's household under a foster-care program: except that the provisions of clause (A) shall not apply if such individual is the mother or father of such child.

Widow's Insurance Benefits

(e) (1) The widow (as defined in section 216(c)) and every surviving divorced wife (as defined in section 216(d)) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

(A) is not married,

~~(B) has attained age 60;~~

(B) (i) has attained age 60 or (ii) is under a

* * § 105(a) (1) disability (as defined in section 223(c) (2)) which began before the end of the period specified in paragraph (5),

(C) (i) has filed application for widow's insurance benefits, or was entitled, after attainment of age 62, to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 62,

(D) in the case of a surviving divorced wife who was not entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month pre-

*Applies with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted on the basis of an application filed in or after the month in which this Act is enacted (sec. 150(d)).

**Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(h)). See also sec. 105(i) of Social Security Amendments of 1967, p. 233.

ceding the month in which he died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from such individual, or was receiving substantial contributions from such individual (pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from such individual—

(i) at the time of his death (or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death), or

(ii) at the time he became entitled to old age insurance benefits or disability insurance benefits (or, if such individual had a period of disability which did not end before the month in which he became entitled to such benefits, at the time such period began or at the time he became entitled to such benefits), and

(E) is not entitled to old age insurance benefits or is entitled to old age insurance benefits each of which is less than 82½ percent of the primary insurance amount of such deceased individual.

shall be entitled to a widow's insurance benefit for each month, beginning with the first month in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, or becomes entitled to an old age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual.

(F) if she is entitled on the basis of having attained age 60, the first month in which she becomes so entitled to such insurance benefits, or

*§ 105(a)(2)

(G) if she is entitled on the basis of being under a disability, (i) the first month after her waiting period (as defined in paragraph (6)) in which she becomes so entitled to such insurance benefits, or (ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which her previous entitlement to insurance benefits under this subsection on the basis of being under a disability terminated.

and ending with the month preceding the first month in

* Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(h)). See also sec. 105(i) of Social Security Amendments of 1967, p. 223.

which any of the following occurs: she remarries, dies, or becomes entitled to an ~~old-age~~ insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual, or the third month following the month in which her disability ceases (unless she attains age 62 on or before the last day of such third month).

retirement

*§ 105(a)(3)

No payment under this paragraph may be made to a widow or surviving divorced wife entitled to benefits on the basis of being under a disability who would not meet the definition of disability in section 223 (c) (2), except for subparagraph (B) therefor, for any month in which she engages in substantial gainful activity.

(2) Except as provided in subsection (q) and paragraph (4) of this subsection, such widow's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.

(3) In the case of a widow or surviving divorced wife who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d), such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.

(4) If a widow, after attaining the age of 60, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (3)), such marriage shall, for purposes of paragraph (1), be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (2) and subsection (q), such widow's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the husband dies or such marriage is otherwise terminated, shall be equal to 50 per centum of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

* Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(h)). See also sec. 105(i) of Social Security Amendments of 1967, p. 233.

(5) The period referred to in paragraph (1) (B) (ii) means, in the case of any widow or surviving divorced wife, the period beginning with whichever of the following is the latest:

(A) the month in which the fully insured individual referred to in paragraph (1) died, or

*§ 105(a)(4)

(B) the last month for which she was entitled to mother's insurance benefits on the basis of the wages and self-employment income of such individual, or

(C) the month in which her previous entitlement to widow's insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased, and ending with the month before the month she attains age 62, or, if earlier, the close of the eighty-fourth month following the month with which such period began.

(6) The waiting period referred to in paragraph (1) means, in the case of any widow or surviving divorced wife, the earliest period of six consecutive calendar months—

(A) throughout which the applicant for widow's insurance benefits has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the eighteenth month before the month in which such application is filed, or (ii) the first day of the sixth month before the month in which the period, specified in paragraph (5), begins.

* Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(n)). See also sec. 105(i) of Social Security Amendments of 1967, p. 233.

Widower's Insurance Benefits

(f) (1) The widower (as defined in section 216(g)) of an individual who died a fully and currently insured individual, if such widower—

- (A) has not remarried,
- (B) has attained age 62,
- (C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died,
- (D) (i) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time of her death or, if such individual had a period of disability which did not end prior to the month in which she died, at the time such period began or at the time of her death, and filed proof of such support within two years after the date of such death, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the date of such death, as the case may be, or (ii) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual, and she was a currently insured individual, at the time

she became entitled to ~~old-age~~ or disability insurance benefits or, if such individual had a period of disability which did not end prior to the month in which she became so entitled, at the time such period began or at the time she became entitled to such benefits, and filed proof of such support within two years after the month in which she became entitled to such benefits, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the month in which she became entitled to such benefits, as the case may be, and

(E) is not entitled to ~~old-age~~ insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of his deceased wife, shall be entitled to a widower's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an ~~old-age~~ insurance benefit equal to or exceeding 82½ percent of the primary insurance amount to his deceased wife.

(2) The requirement in paragraph (1) that the deceased fully insured individual also be a currently insured individual, and the provisions of subparagraph (D) of such paragraph, shall (subject to subsection (s)) not be applicable in the case of any individual who—

- (A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under this subsection or subsection (h);

retirement

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d); or

(C) in the month prior to the month of his marriage to such individual he was entitled to, or on application therefor and attainment of the required age (if any), would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

(3) Except as provided in paragraph (5), such widower's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of his deceased wife.

(4) In the case of a widower who remarries—

(A) an individual entitled to benefits under subsection (b), (e), (g), or (h), or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d), such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage.

(5) If a widower, after attaining the age of 62, marries an individual (other than one described in subparagraph (A) or (B) of paragraph (4)), such marriage shall, for purposes of paragraph (1), be deemed not to have occurred; except that, notwithstanding the provisions of paragraph (3) and subsection (q), such widower's insurance benefit for the month in which such marriage occurs and each month thereafter prior to the month in which the wife dies or such marriage is otherwise terminated, shall be equal to 50 per centum of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based.

Mother's Insurance Benefits

(g)(1) The widow and every surviving divorced mother (as defined in section 216(d)) of an individual who died a fully or currently insured individual, if such widow or surviving divorced mother —

(A) is not married,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to ~~old age~~ insurance benefits, or is entitled to ~~old age~~ insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

retirement

(F) in the case of a surviving divorced mother—

(i) at the time of such individual's death (or, if such individual had a period of disability which did not end before the month in which he died, at the time such period began or at the time of such death)—

(I) she was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from such individual, or

(II) she was receiving substantial contributions from such individual (pursuant to a written agreement), or

(III) there was a court order for substantial contributions to her support from such individual,

(ii) the child referred to in subparagraph (E) is her son, daughter, or legally adopted child, and

(iii) the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income,

shall (subject to subsection (s)) be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or surviving divorced mother becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a surviving divorced mother with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced mother is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

retirement

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of a widow or surviving divorced mother who marries—

(A) an individual entitled to benefits under subsection (a), (f), or (h), or under section 223(a), or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

the entitlement of such widow or surviving divorced mother to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 223(a) or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a)

or subsection (d) of this section unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

Parent's Insurance Benefits

(h) ~~(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual, if such parent—~~

~~(A) has attained age 62,~~

~~(B) (i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,~~

~~(C) has not married since such individual's death,~~

~~(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case), and~~

~~(E) has filed application for parent's insurance benefits, shall be entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which such parent becomes so entitled to such parent's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case).~~

~~(2)(A) Except as provided in subparagraphs (B) and (C), such parent's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.~~

~~(B) For any month for which more than one parent is entitled to parent's insurance benefits on the basis of such deceased individual's wages and self-employment income, such benefit for each such parent for such month shall (except as provided in subparagraph (C)) be equal to 75 percent of the primary insurance amount of such deceased individual.~~

~~(C) In any case in which—~~

~~(i) any parent is entitled to a parent's insurance benefit for a month on the basis of a deceased individual's wages and self-employment income, and~~

§152(a)*

*Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 152(f)(1).)

~~(ii) another parent of such deceased individual is entitled to a parent's insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent's benefits referred to in clause (i) was filed,~~

the amount of the parent's insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent's insurance benefit of a parent referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 203(a)) of the benefit for such month of the parent referred to in clause (i).

(1) Every parent (as defined in this subsection) of an individual entitled to ~~old age~~ or disability insurance benefits, or of an individual who died a fully insured individual. if such parent—

(A) has attained age 62,

(B) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such deceased or insured individual—

(i) if such individual is entitled to ~~old age~~ or disability insurance benefits, at the time he became entitled to such benefits,

(ii) if such individual has died, at the time of death, or

(iii) if such individual had a period of disability which continued until he became entitled to ~~old age~~ or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability,

retirement

*Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 152(f)(1)).

and has filed proof of such support within two years
 after the month in which such individual filed applica-
 tion with respect to such period of disability, became
 entitled to such benefits, or died, whichever is claimed
 by such parent,

*

retirement

(C) is not entitled to ~~old-age~~ insurance benefits,
 or is entitled to such benefits, each of which is (i) based
 on a primary insurance amount which is less than 50
 percent of the primary insurance amount of such in-
 dividual if he is entitled to ~~old-age~~ or disability insur-
 ance benefits, or (ii) less than 82½ percent of the pri-
 mary insurance amount of such individual if he is de-
 ceased, but only in case the amount of such parent's
 insurance benefit is determinable under paragraph (2)
 (A) (or 75 percent of such primary insurance amount
 in any other case),

§ 152(a)**

(D) has not married since the time as of which
 the Secretary determines, under subparagraph (B) of
 this paragraph, that such parent is receiving at least
 one-half of his or her support from such individual,

(E) has filed application for parent's insurance
 benefits,

shall be entitled to a parent's insurance benefit for each
 month, beginning with the first month in which he or she
 becomes so entitled to such insurance benefits and ending
 with the month preceding the first month in which any
 of the following occurs—

~~of the Social Security Amendments of 1907~~
 *Section 152(e) provides that the requirement in section 202(h)(1)(B) of the Act
 that proof of support be filed within two years after a specified date in order to
 establish eligibility for parent's insurance benefits shall, insofar as such
 requirement applies to cases where applications under such subsection are filed by
 parents on the basis of the wages and self-employment income of an individual
 entitled to old-age or disability insurance benefits, not be applicable if such
 proof of support is filed within two years after the date of enactment of
 such amendments.

**Applies only with respect to monthly benefits under title II for and after the
 second month following the month in which this Act is enacted, but only on the
 basis of applications for such benefits filed in or after the month in which
 this Act is enacted se(sec. 152(f)(1)). 26

(F) such parent dies or marries, or

(G) (i) if such individual is entitled to ~~old age~~ insurance benefits, such parent becomes entitled to an old-age insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or (ii) if such individual has died, such parent becomes entitled to an ~~old age~~ insurance benefit which is equal to or exceeds 82½ percent of the primary insurance amount of such individual in case the amount of the parent's insurance benefit for such month is determinable under paragraph (2) (A) (or 75 percent of such primary insurance amount in any other case), or

(H) such individual is not entitled to disability insurance benefits and is not entitled to ~~old age~~ insurance benefits.

(2) (A) Except as provided in subparagraphs (B) and (C), and in subsection (q), such parent's insurance benefit for each month shall be equal to—

(i) if the individual on the basis of whose wages and self-employment income the parent is entitled to such benefit has not died prior to the end of such month, one-half of the primary insurance amount of such individual for such month, or

(ii) if such individual has died in or prior to such month, 82½ percent of the primary insurance amount of such individual;

retirement

§152(a)*

*Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted. (Sec. 152(f)(1)).

(B) For any month for which more than one parent is entitled to parent's insurance benefits on the basis of the wages and self-employment income of an individual who died in or prior to such month, such benefit for each such parent for such month shall (except as provided in subparagraph (C)) be equal to 75 per centum of the primary insurance amount of such insured individual;

(C) In any case in which—

(i) any parent is entitled to a parent's insurance benefit for a month on the basis of the wages and self-employment income of an individual who died in or prior to such month, and

(ii) another parent of such individual is entitled to parent's insurance benefits for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent's insurance benefits referred to in clause (i) was filed, the amount of the parent's insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent's insurance benefit of the parent referred to in clause (ii) for such month shall be equal to 150 per centum of the primary insurance amount of such individual minus the amount (before the application of section 203 (a)) of the benefit for such month of the parent referred to in clause (i).

§152(a)*

*Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 152(f)(1)).

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

(4) In the case of a parent who marries—

(A) an individual entitled to benefits under this subsection or subsection (b), (e), (f), or (g), or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d), such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.

Lump-Sum Death Payments

(i) Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount, or an amount equal to \$255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Secretary to be the widow or widower of the deceased and to have been living in the same household with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid—

(1) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remains unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least 90 days have elapsed after the date of death of such insured individual and prior to the expiration of such 90 days no person has assumed responsibility for the payment of any of such burial expenses;

(2) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (1)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

(3) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (1) and (2), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

No payment (except a payment authorized pursuant to clause (1) (A) of the preceding sentence) shall be made to any person under this subsection unless application therefor shall have been filed, by or on behalf of such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured individual, for the month preceding the month in which such individual died. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before January 1, 1957, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment. In the case of any individual who died outside the fifty States and the District of Columbia after December 1956 while he was performing service, as a member of a uniformed service, to which the provisions of section 210(l)(1) are applicable, and who is returned to any State or to any Territory or possession of the United States, for interment or reinterment, the provisions of the third sentence of this subsection shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

Application for Monthly Insurance Benefits

(j)(1) An individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit under this title for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(4) Whenever benefits which an individual is entitled to receive under this title have been withheld by the Treasury Department under chapter 123 of title 31 of the United States Code and such individual dies before such benefits can be paid, benefits payable for months after the month in which a determination is made that the benefits should be so withheld shall not be paid in excess of the equivalent of the last 12 months' benefits that would have been payable to such individual.

*§ 158(a)

Simultaneous Entitlement to Benefits

(k)(1) A child, entitled to child's insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child's insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) hereof, to child's insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child's insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child's insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

*Applies only with respect to benefits that became payable for months after the month in which this Act is enacted (sec. 158(b)).

retirement

(2)(A) Any child who under the preceding provisions of this section is entitled for any month to more than one child's insurance benefit shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month, such benefit to be the one based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount.

(B) Any individual (other than an individual to whom subsection (e)(4) or (f)(5) applies) who, under the preceding provisions of this section and under the provisions of section 223, is entitled for any month to more than one monthly insurance benefit (other than ~~old-age~~ or disability insurance benefit) under this title shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph (B)) would otherwise be entitled for such month. Any individual who is entitled for any month to more than one widow's or widower's insurance benefit to which subsection (e)(4) or (f)(5) applies shall be entitled to only one such benefit for such month, such benefit to be the largest of such benefits.

(3)(A) if an individual is entitled to an ~~old-age~~ or disability insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month, after any reduction under subsection (q) and any reduction under section 203(a), shall be reduced, but not below zero, by an amount equal to such ~~old-age~~ or disability insurance benefit (after reduction under such subsection (q)).

(B) If an individual is entitled for any month to a widow's or widower's insurance benefit to which subsection (e)(4) or (f)(5) applies and to any other monthly insurance benefit under section 202 (other than an ~~old-age~~ insurance benefit), such other insurance benefit for such month, after any reduction under subparagraph (A), any reduction under subsection (q), and any reduction under section 203(a), shall be reduced, but not below zero, by an amount equal to such widow's or widower's insurance benefit after any reduction or reductions under such subparagraph (A) and such section 203(a).

(4) Any individual who, under this section and section 223, is entitled for any month to both an ~~old-age~~ insurance benefit and a disability insurance benefit under this title shall be entitled to only the larger of such benefits for such month, except that, if such individual so elects, he shall instead be entitled to only the smaller of such benefits for such month.

Entitlement to Survivor Benefits Under Railroad Retirement Act

(1) If any person would be entitled, upon filing application therefor to an annuity under section 5 of the Railroad Retirement Act of 1937, or to a lump-sum payment under subsection (f)(1) of such section, with respect to the death of an employee (as defined in such Act) no lump-sum death payment, and no monthly benefit for the month in which such employee died or for any month thereafter, shall be paid under this section to any person on the basis of the wages and self-employment income of such employee.

Minimum Survivor's or Dependent's Benefit

*§ 154(f)

(m) In any case in which the benefit of any individual for any month under this section (other than subsection (a)) is, prior to reduction under subsection (k)(3) and subsection (q), less than the first figure in column ~~IV~~ of the table in section 215(a) and no other individual is (without the application of section 202(j)(1)) entitled to a benefit under this section for such month on the basis of the same wages and self-employment income, such benefit for such month shall, prior to reduction under such subsection (k)(3) and subsection (q), be increased to the first figure in column ~~IV~~ of the table in section 215(a).

III

Termination of Benefits Upon Deportation of Primary Beneficiary

(n)(1) If any individual is (after the date of enactment of this subsection) deported under paragraph (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act, then, notwithstanding any other provisions of this title—

(A) no monthly benefit under this section or section 223 shall be paid to such individual, on the basis of his wages and self-employment income, for any month occurring (i) after the month in which the Secretary is notified by the Attorney General that such individual has been so deported, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence,

(B) if no benefit could be paid to such individual (or if no benefit could be paid to him if he were alive) for any month by reason of subparagraph (A), no monthly benefit under this section shall be paid, on the basis of his wages and self-employment income, for such month to any other person who is not a citizen of the United States and is outside the United States for any part of such month, and

(C) no lump-sum death payment shall be made on the basis of such individual's wages and self-employment income if he dies (i) in or after the month in which such notice is received, and (ii) before the month in which he is thereafter lawfully admitted to the United States for permanent residence.

Section 203 (b), (c), and (d) of this Act shall not apply with respect to any such individual for any month for which no monthly benefit may be paid to him by reason of this paragraph.

(2) As soon as practicable after the deportation of any individual under any of the paragraphs of section 241(a) of the Immigration and Nationality Act enumerated in paragraph (1) in this subsection, the Attorney General shall notify the Secretary of such deportation.

*Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual (sec. 154(j)).

Application for Benefits by Survivors of Members and Former Members of the Uniformed Services

(o) In the case of any individual who would be entitled to benefits under subsection (d), (e), (g), or (h) upon filing proper application therefor, the filing with the Administrator of Veterans' Affairs by or on behalf of such individual of an application for such benefits, on the form described in section 3005 of Title 38, United States Code, shall satisfy the requirement of such subsection (d), (e), (g), or (h) that an application for such benefits be filed.

Extension of Period for Filing Proof of Support and Applications for Lump-Sum Death Payment

(p) In any case in which there is a failure—

(1) to file proof of support under subparagraph (C) of subsection (c) (1), clause (i) or (ii) of subparagraph (D) of subsection (f) (1), or subparagraph (B) of subsection (h) (1), or under clause (B) of subsection (f) (1) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subparagraph or clause, or

(2) to file, in the case of a death after 1946, application for a lump-sum death payment under subsection (i), or under subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subsection,

any such proof or application, as the case may be, which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof or application within such period. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

Parent's	Reduction of ~~Old-Age~~ Disability, Wife's, Husband's, or Widow's Insurance Benefit Amounts	*§ 152(b)(1)
parent's,	(q) (1) If the first month for which an individual is entitled to an ~~old-age~~ wife's, husband's or widow's insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for each month shall, subject to the succeeding paragraphs of this subsection, be reduced by—	*§ 152(b)(2)
, husband's,	(a) 5/9 of 1 percent of such amount if such benefit is an ~~old-age~~ or widow's insurance benefit, or 25/36 of 1 percent of such amount if such benefit is a wife's or husband's insurance benefit, multiplied by	retirement
or parent's	(B) (i) the number of months in the reduction period for such benefit (determined under paragraph (6)), if such benefit is for a month before the month in which such individual attains retirement age, or	

*Applies only with respect to monthly insurance benefits under title II for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted (sec. 152(f)(1)).

	(ii) the number of months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains retirement age or for any month thereafter.	
	(2) If an individual is entitled to a disability insurance benefit for a month after a month for which such individual was entitled to an ~~old age~~ insurance benefit, such disability insurance benefit for each month shall be reduced by the amount such ~~old age~~ insurance benefit would be reduced under paragraphs (1) and (4) for such month had such individual attained age 65 in the first month for which he most recently became entitled to a disability insurance benefit.	retirement
	(3) (A) If the first month for which an individual both is entitled to a wife's, husband's, ~~or widow's~~ insurance benefit and has attained age 62 (in the case of a wife's ~~or husband's~~ insurance benefit) or age 60 (in the case of a widow's insurance benefit) is a month for which such individual is also entitled to—	parent's,
	(i) an ~~old age~~ insurance benefit (to which such individual was first entitled for a month before he attains age 65), or	, husband's, or parent's
*§ 152(b)(3)	(ii) a disability insurance benefit, then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife's, husband's, ~~or widow's~~ insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).	parent's,
	(B) For any month for which such individual is entitled to an ~~old age~~ insurance benefit and is not entitled to a disability insurance benefit, such individual's wife's ~~or husband's~~ insurance benefit shall be reduced by the sum of—	
	(i) the amount by which such ~~old age~~ insurance benefit is reduced under paragraph (1) for such month, and	, husband's, or parent's
retirement	(ii) the amount by which such wife's ~~or husband's~~ insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's ~~or husband's~~ insurance benefit (before reduction under this subsection) over such ~~old age~~ insurance benefit (before reduction under this subsection).	
	(C) For any month for which such individual is entitled to a disability insurance benefit, such individual's wife's, husband's, ~~or widow's~~ insurance benefit shall be reduced by the sum of—	
	(i) the amount by which such disability insurance benefit is reduced under paragraph (2) for such month (if such paragraph applied to such benefit), and	
	(ii) the amount by which such wife's, husband's, ~~or widow's~~ insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife's, husband's, ~~or widow's~~ insurance benefit (before reduction under this subsection) over such disability insurance benefit (before reduction under this subsection).	parent's,
	(D) For any month for which such individual is entitled neither to an ~~old age~~ insurance benefit nor to a disability insurance benefit, such individual's wife's, husband's, ~~or widow's~~ insurance benefit shall be reduced by the amount by which it would be reduced under paragraph (1).	

**Applies only with respect to monthly insurance benefits under title II for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted (sec. 152(f)(1)).

retirement

(E) If the first month for which an individual is entitled to an ~~old age~~ insurance benefit (whether such first month occurs before, with, or after the month in which such individual attains the age of 65) is a month for which such individual is also (or would, but for subsection (e) (1), be) entitled to a widow's insurance benefit to which such individual was first entitled for a month before she attained retirement age, then such ~~old age~~ insurance benefit shall be reduced by whichever of the following is the larger:

(i) the amount by which (but for this subparagraph) such ~~old age~~ insurance benefit would have been reduced under paragraph (1), or

(ii) the amount equal to the sum of the amount by which such widow's insurance benefit was reduced for the month in which such individual attained retirement age and the amount by which such ~~old age~~ insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such ~~old age~~ insurance benefit (before reduction under this subsection) over such widow's insurance benefit (before reduction under this subsection).

(F) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs with or after the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e) (1), be) entitled to a widow's insurance benefit to which such individual was first entitled for a month before she attained retirement age, then such disability insurance benefit for each month shall be reduced by whichever of the following is larger:

(i) the amount by which (but for this subparagraph) such disability insurance benefit would have been reduced under paragraph (2), or

(ii) the amount equal to the sum of the amount by which such widow's insurance benefit was reduced for the month in which such individual attained retirement age and the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's insurance benefit (before reduction under this subsection).

(G) If the first month for which an individual is entitled to a disability insurance benefit (when such first month occurs before the month in which such individual attains the age of 62) is a month for which such individual is also (or would, but for subsection (e) (1), be) entitled to a widow's insurance benefit, then such disability insurance benefit for each month shall be reduced by the amount such widow's insurance benefit would be reduced under paragraphs (1) and (4) for such month had such individual attained age 62 in the first month for which he most recently became entitled to a disability insurance benefit.

(4) If—

(A) an individual is or was entitled to a benefit subject to reduction under paragraph (1) or (3) of this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

then the amount of the reduction of such benefit for each month shall be computed separately (under paragraph (1) or (3), whichever applies) for the portion of such benefit which constitutes such benefit before any increase described in subparagraph (B), and separately (under paragraph (1) or (3), whichever applies to the benefit being increased) for each such increase. For purposes of determining the amount of the reduction under paragraph (1) or (3) in any such increase, the reduction period and the adjusted reduction period shall be determined as if such increase were a separate benefit to which such individual was entitled for and after the first month for which such increase is effective.

(5) (A) No wife's insurance benefit shall be reduced under this subsection—

(i) for any month before the first month for which there is in effect a certificate filed by her with the Secretary, in accordance with regulations prescribed by him, in which she elects to

receive wife's insurance benefits reduced as provided in this subsection, or

(ii) for any month in which she has in her care (individually or jointly with the person on whose wages and self-employment income her wife's insurance benefit is based) a child of such person entitled to child's insurance benefits.

(B) Any certificate described in subparagraph (A)(i) shall be effective for purposes of this subsection (and for purposes of preventing deductions under section 203(c)(2))—

(i) for the month in which it is filed and for any month thereafter, and

(ii) for months, in the period designated by the woman filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62, nor shall it be effective for any month to which subparagraph (A)(ii) applies.

(C) If a woman does not have in her care a child described in subparagraph (A)(ii) in the first month for which she is entitled to a wife's insurance benefit, and if such first month is a month before the month in which she attains age 65, she shall be deemed to have filed in such first month the certificate described in subparagraph (A)(i).

(D) No widow's insurance benefit for a month in which she has in her care a child of her deceased husband (or deceased former husband) entitled to child's insurance benefits shall be reduced under this subsection below the amount to which she would have been entitled had she been entitled for such month to mother's insurance benefits on the basis of her deceased husband's (or deceased former husband's) wages and self-employment income.

(E) A widow's insurance benefit, reduced as provided in paragraph (1), for a month in which she is entitled to benefits on the basis of being under a disability (if such month occurs before the month in which she attains age 62) which began before the end of the period specified in subsection (e) (5) shall be reduced by the amount such widow's insurance benefit would be reduced under such paragraph had such individual attained age 62 in the first month in which she was entitled to such benefits on the basis of being under such disability.

**§ 105(a)(5)

(6) For purposes of this subsection, the "reduction period" for an individual's ~~old-age~~ wife's, husband's, or widow's insurance benefit is the period—

*§ 152(b)(4)

(A) beginning—

(i) in the case of an ~~old-age~~ husband's or widow's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit, or

retirement

(ii) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5) (A) (i) is effective, and

(B) ending with the last day of the month before the month in which such individual attains retirement age.

(7) For purposes of this subsection, the "adjusted reduction period" for an individual's ~~old-age~~ wife's, husband's, or widow's insurance benefit is the reduction period prescribed by paragraph (6) for such benefit, excluding from such period—

*§ 152(b)(5)

(A) any month in which such benefit was subject to deductions under section 203(b), 203(c) (1), 203(d) (1), or 222(b),

and, in the

case of a parent's insurance benefit, any month in which

no such benefit was payable under section 203 (a),

*Applies only with respect to monthly insurance benefits under title II for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted (sec. 152(f)(1)).

**Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(h)). See also sec. 105(i) of Social Security Amendments of 1967, p. 233.

	(B) in the case of wife's insurance benefits, any month in which she had in her care (individually or jointly with the person on whose wages and self-employment income such benefit is based) a child of such person entitled to child's insurance benefits,	
*§ 152(b)(5)	(C) in the case of wife's ~~or husband's~~ insurance benefits, any month for which such individual was not entitled to such benefits because the spouse on whose wages and self-employment income such benefits were based ceased to be under a disability,	
	(D) in the case of widow's insurance benefits, any month in which the reduction in the amount of such benefit was determined under paragraph (5) (D),	
	(E) in the case of widow's insurance benefits, any month before the month in which she attained retirement age for which she was not entitled to such benefit because of the occurrence of an event that terminated her entitlement to such benefits, and	, husband's, or parent's
retirement	(F) in the case of ~~old age~~ insurance benefits, any month for which such individual was entitled to a disability insurance benefit.	
	(8) This subsection shall be applied after reduction under section 203(a) and after application of section 215(g). If the amount of any reduction computed under paragraph (1), (2), or (3) is not a multiple of \$0.10, it shall be reduced to the next lower multiple of \$0.10.	
*§ 152(b)(6)	(9) For purposes of this subsection, the term "retirement age" means age 65 with respect to an ~~old age~~ wife's, ~~or husband's~~ insurance benefit and age 62 with respect to a widow's insurance benefit.	
retirement	(10) For purposes of this subsection, "parent's insurance benefits" means benefits payable under this section to	
	a parent on the basis of the wages and self-employment income of an individual entitled to ~~old age~~ insurance benefits	
*§ 152(b)(7)	or disability insurance benefits.	
retirement		
*§ 152(c)(1)	Presumed Filing of Application by Individuals Eligible for ~~Old Age Insurance~~ Benefits and for Wife's ~~or Husband's~~ Insurance Benefits	, Husband's or Parent's
retirement	(r)(1) If the first month for which an individual is entitled to an ~~old age~~ insurance benefit is a month before the month in which such individual attains age 65, and if such individual is eligible for a wife's or husband's insurance benefit for such first month, such individual shall be deemed to have filed an application in such month for wife's ~~or husband's~~ insurance benefits.	
*§ 152(c)(2)	(2) If the first month for which an individual is entitled to a wife's ~~or husband's~~ insurance benefit reduced under subsection (q) is a month before the month in which such individual attains age 65, and if such individual is eligible (but for section 202(k)(4)) for an ~~old age~~ insurance benefit for such first month, such individual shall be deemed to have filed an application for ~~old age~~ insurance benefits—	, husband's, or parent's
retirement		

*Applies only with respect to monthly insurance benefits under title II for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted (sec. 152(f)(1)).

(A) in such month, or

(B) if such individual is also entitled to a disability insurance benefit for such month, in the first subsequent month for which such individual is not entitled to a disability insurance benefit.

(3) For purposes of this subsection, an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, he would be entitled to such benefit for such month.

Child Aged 18 or Over Attending School

(s)(1) For the purposes of subsections (b)(1), (g)(1), (q)(5), and (q)(7) of this section and paragraphs (2), (3), and (4) of section 203(c), a child who is entitled to child's insurance benefits under subsection (d) for any month, and who has attained the age of 18 but is not in such month under a disability (as defined in section 223(c)) which began before he attained such age, shall be deemed not entitled to such benefits for such month, unless he was under such a disability in the third month before such month.

(2) Subsection (f)(4), and so much of subsections (b)(3), (d)(6), (e)(3), (g)(3), and (h)(4) of this section as precedes the semicolon, shall not apply in the case of any child unless such child, at the time of the marriage referred to therein, was under a disability (as defined in section 223(c)) which began before such child attained the age of 18 or had been under such a disability in the third month before the month in which such marriage occurred.

(3) Subsection (c)(2)(B) and (f)(2)(B) of this section, so much of subsections (b)(3), (d)(6), (e)(3), (g)(3), and (h)(4) of this section as follows the semicolon, the last sentence of subsection (c) of section 203, subsection (f)(1)(C) of section 203, and subsections (b)(3)(B), (c)(6)(B), (f)(3)(B), and (g)(6)(B) of section 216 shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 223(c)) which began before such child attained the age of 18.

Suspension of Benefits of Aliens Who Are Outside the United States

(t)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Secretary finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States.

(2) Paragraph (1) shall not apply to any individual who is a citizen of a foreign country which the Secretary finds has in effect a social insurance or pension system which is of general application in such country and under which—

(A) periodic benefits, or the actuarial equivalent thereof, are paid on account of ~~old age~~ retirement, or death, and

retirement

(B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

(3) Paragraph (1) shall not apply in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of the enactment of this subsection.

(4) Paragraph (1) shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside the United States while in the active military or naval service of the United States, or

(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 210 (1) (2) and (3)) as a member of a uniformed service (as defined in section 210 (m)), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 210 (1) (2)), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 210 (1) (3)), as a member of a uniformed service (as defined in section 210 (m)), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause, or

(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 5(k)(1) of the Railroad Retirement Act.

(5) No person who is, or upon application would be, entitled to a monthly benefit under this section for December 1956 shall be deprived, by reason of paragraph (1), of such benefit or any other benefit based on the wages and self-employment income of the individual on whose wages and self-employment income such monthly benefit for December 1956 is based.

(6) If an individual is outside the United States when he dies and no benefit may, by reason of paragraph (1), be paid to him for the month preceding the month in which he dies, no lump-sum death payment may be made on the basis of such individual's wages and self-employment income.

(7) Subsections (b), (c), and (d) of section 203 shall not apply with respect to any individual for any month for which no monthly benefit may be paid to him by reason of paragraph (1) of this subsection.

(8) The Attorney General shall certify to the Secretary such information regarding aliens who depart from the United States to any foreign country (other than a foreign country which is territorially contiguous to the continental United States) as may be necessary to enable the Secretary to carry out the purposes of this subsection and shall otherwise aid, assist, and cooperate with the Secretary in obtaining such other information as may be necessary to enable the Secretary to carry out the purposes of this subsection.

(9) No payments shall be made under part A of title XVIII with respect to items or services furnished to an individual in any month for which the prohibition in paragraph (1) against payment of benefits to him is applicable (or would be if he were entitled to any such benefits).¹²⁰

~~Conviction of Subversive Activities, Etc.~~

~~(u) (1) If any individual is convicted of any offense (committed after the date of the enactment of this subsection) under—~~

~~(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18 of the United States Code, or~~

~~(B) section 4, 112, or 113 of the Internal Security Act of 1950, as amended;~~

~~then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly insurance benefit under this section or section 223 is payable to such individual for the month in which he is convicted or for any month thereafter, in determining the amount of any such benefit payable to such individual for any such month, and in determining whether such individual is entitled to insurance benefits under part A of title XVIII for any such month, there shall not be taken into account—~~

~~(C) any wages paid to such individual or to any other individual in the calendar quarter in which such conviction occurs or in any prior calendar quarter, and~~

~~(D) any net earnings from self-employment derived by such individual or by any other individual during a taxable year in which such conviction occurs or during any prior taxable year.~~

~~(2) As soon as practicable after an additional penalty has, pursuant to paragraph (1), been imposed with respect to any individual, the Attorney General shall notify the Secretary of such imposition.~~

~~(3) If any individual with respect to whom an additional penalty has been imposed pursuant to paragraph (1) is granted a pardon of the offense by the President of the United States, such additional penalty shall not apply for any month beginning after the date on which such pardon is granted.~~

§ 110(c)(1)

TITLE II OF THE ACT

Waiver of Benefits

(v) Notwithstanding any other provisions of this title, in the case of any individual who files a waiver pursuant to section 1402(h) of the Internal Revenue Code of 1954 and is granted a tax exemption thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver; except that, if thereafter such individual's tax exemption under such section 1402(h) ceases to be effective, such waiver shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on his self-employment income for and after the first taxable year for which such tax exemption ceases to be effective and on his wages for and after the calendar year (if any) which begins in or with the beginning of such taxable year.

Reduction of Insurance Benefits

Maximum Benefits

Sec. 203. (a) Whenever the total of monthly benefits to which individuals are entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an insured individual is greater than the amount appearing in column ^{IV} of the table in section 215(a) on the line on which appears in column ^{IV} such insured individual's primary insurance amount, such total of benefits shall be reduced to such amount; except that—

**§ 154(g)

IV

III

(1) when any of such individuals so entitled would (but for the provisions of section 202(k)(2)(A)) be entitled to child's insurance benefits on the basis of the wages and self-employment income of one or more other insured individuals, such total of benefits shall not be reduced to less than the smaller of: (A) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or (B) the last figure in column ^{IV} of the table appearing in section 215(a), or

IV

*§ 101(b)

~~(2) when two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for any month which begins after December 1964 and before the enactment of the Social Security Amendments of 1965, on the basis of the wages and self-employment income of such insured individual, such total of benefits for any month occurring after December 1964 shall not be reduced to less than the larger of—~~

~~(A) the amount determined under this subsection without regard to this paragraph, or~~

*Applies with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month (sec. 101(f)).

**Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual (sec. 154(j)).

202(a)(cont.)

~~(B)(i) with respect to the month in which such Amendments are enacted or any prior month, an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this title (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), as in effect prior to the enactment of such Amendments, for each such person (other than a person who would not be entitled to such benefits for such month without the application of the amendments made by section 306 of the Social Security Amendments of 1965), for such month, by 107 percent and raising each such increased amount, if it is not a multiple of \$0.10, to the next higher multiple of \$0.10, and~~

§ 101(b)*

~~(ii) with respect to any month after the month in which such Amendments are enacted, an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this title (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), as in effect prior to the enactment of such Amendments, for each such person (other than a person who would not be entitled to such benefits for such month without the application of the amendments made by section 306 of the Social Security Amendments of 1965) for the month of enactment, by 107 percent and raising each such increased amount, if it is not a multiple of \$0.10, to the next higher multiple of \$0.10; but in any such case (I) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B) of this paragraph, and (II) if section 202(k) (2)(A) was applicable in the case of any of such benefits for any such month beginning before the enactment of the Social Security Amendments of 1965, and ceases to apply after such month, the provisions of subparagraph (B) shall be applied, for and after the month in which such section 202(k) (2)(A) ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for such month beginning prior to such enactment, or~~

(2) when two or more persons were entitled (without the application of section 202(j) (1) and section 223(b)) to monthly benefits under section 202 or 223 for June 1967 on the basis of the wages and self-employment income of such insured individual, such total of benefits for any month which begins after May 1967 shall not be reduced to less than the larger of—

§ 101(b)*

*Applies with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month (sec. 101(f)).

(A) the amount determined under this subsection without regard to this paragraph, or

(B) an amount equal to the sums of the amounts derived by multiplying the benefit amount determined under this title (including this subsection, but without the application of section 222 (b), section 202 (q), and subsections (b), (c), and (d) of this section), as in effect prior to June 1967, for each such person for June 1967, by 115 percent and raising each such increased amount, if it is not a multiple of \$0.10, to the next higher multiple of \$0.10;

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of this subparagraph, and (ii) if section 202 (k) (2) (A) was applicable in the case of any such benefits for June 1967, and ceases to apply after such month, the provisions of subparagraph (B) shall be applied, for and after the month in which such section 202 (k) (2) (A) ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for June 1967 or

*Applies with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month (sec. 101(f)).

(3) when any of such individuals is entitled to monthly benefits as a divorced wife under section 202(b) or as a surviving divorced wife under section 202(e) for any month, the benefit to which she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced wife or surviving divorced wife were entitled to benefits for such month.

For purposes of this subsection, if the primary

III	insurance amount of an individual does not appear in column
IV	of the table in section 215(a), the reference to the
IV	amount appearing in column ~~IV~~ of such table shall be treated

as referring to the amount on the line on which the next higher primary insurance amount appears.

§ 102(b)*

***§ 154(g)

In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, such reduction shall be made after any deductions under this section and after any deductions under section 222(b). ~~Whenever a reduction is made under this subsection, each benefit, except the old-age or disability insurance benefit, shall be proportionately decreased.~~

Whenever a reduction is made

under this subsection in the total of monthly benefits for any month—

(A) if such total of benefits for such month includes any benefit or benefits under section 202(h), the reduction shall be applied against such benefits under section 202(h) by proportionately decreasing them;

***§ 152(d)

*Applies with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month (sec. 102(d)).

**Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(d) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual (sec. 154(j)).

***Applies only in the case of applications for benefits under such section 202(n) filed in or after the second month following the month in which this Act is enacted (sec. 152(f)(2)).

§152(d)*

(B) if no benefits under section 202 (h) are included in such total benefit or if such reduction exceeds the sum of the benefits under section 202 (h) for such month, all of such reduction or such excess, as the case may be, shall be applied against the benefits (other than those under section 202 (h)) included in such total of benefits for such month by proportionately decreasing each of them, except the ~~old-age~~ or disability insurance benefit.

retirement

Deductions on Account of Work

(b) Deductions, in amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, and from any payment or payments to which any other persons are entitled on the basis of such individual's wages and self-employment income, until the total of such deductions equals—

(1) such individual's benefit or benefits under section 202 for any month, and

(2) if such individual was entitled to ~~old-age~~ insurance benefits under section 202(a) for such month, the benefit or benefits of all other persons for such month under section 202 based on such individual's wages and self-employment income,

if for such month he is charged with excess earnings, under the provisions of subsection (f) of this section, equal to the total of benefits referred to in clauses (1) and (2). If the excess earnings so charged are less than such total of benefits, such deductions with respect to such month shall be equal only to the amount of such excess earnings. If a child who has attained the age of 18 and is entitled to child's insurance benefits, or a person who is entitled to mother's insurance benefits, is married to an individual entitled to ~~old-age~~ insurance benefits under section 202(a), such child or such person, as the case may be, shall, for the purposes of this subsection and subsection (f), be deemed to be entitled to such benefits on the basis of the wages and self-employment income of such individual entitled to ~~old-age~~ insurance benefits. If a deduction has already been made under this subsection with respect to a person's benefit or benefits under section 202 for a month, he shall be deemed entitled to payments under such section for such month for purposes of further deductions under this subsection, and for purposes of charging of each person's excess earnings under subsection (f), only to the extent of the total of his benefits remaining after such earlier deductions have been made. For purposes of this subsection and subsection (f)—

*Applies only in the case of applications for benefits under such section 202(h) filed in or after the second month following the month in which this Act is enacted. (Sec. 152(f)(2)).

(A) an individual shall be deemed to be entitled to payments under section 202 equal to the amount of the benefit or benefits to which he is entitled under such section after the application of subsection (a) of this section, but without the application of the penultimate sentence thereof; and

(B) if a deduction is made with respect to an individual's benefit or benefits under section 202 because of the occurrence in any month of an event specified in subsection (c) or (d) of this section or in section 222(b), such individual shall not be considered to be entitled to any benefits under such section 202 for such month.

Deductions on Account of Noncovered Work Outside the United States or Failure to Have Child in Care

(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under section 202 for any month—

(1) in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States; or

(2) in which such individual, if a wife under age sixty-five entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit and such wife's insurance benefit for such month was not reduced under the provisions of section 202(q); or

(3) in which such individual, if a widow entitled to a mother's insurance benefit, did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

(4) in which such individual, if a surviving divorced mother entitled to a mother's insurance benefit, did not have in her care a child of her deceased former husband who (A) is her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen ~~or any subsequent month.~~

or any subsequent month; nor

shall any deduction be made under this subsection from any widow's insurance benefit for the month in which the widow or surviving divorced wife has not attained age 62 and is entitled to such benefits on the basis of being under a disability.

*§ 105(b)(1)

*Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(h)). See also sec. 105(i) of Social Security Amendments of 1967, p. 233.

Deductions From Dependents' Benefits on Account of Noncovered Work Outside the United States by Old-Age Insurance Beneficiary

child's or
parent's

*§ 152(e)

retirement

(d) (1) ~~Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old age insurance benefits, to which a wife, divorced wife, husband, or child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.~~

child, or
parent

child's or
parent's

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to ~~old age insurance benefits~~ and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States.

retirement

Occurrence of More Than One Event

(e) If more than one of the events specified in subsections (c) and (d) and section 222(b) occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

Months to Which Earnings Are Charged

(f) For purposes of subsection (b) —

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 202 on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, or the sum of the payments to which such individual and all other persons are entitled for such month under section 202 on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 202(a) and other persons are entitled to benefits under section

*Applies only with respect to monthly insurance benefits under title II for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted (sec. 152(f)(1)).

202 (b), (c), or (d) on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 202(s), no part of the excess earnings of an individual shall be charged to any month (A) for which such individual was not entitled to a benefit under this title, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, ~~or (D)~~

(D) prior to the month such indi-

vidual attains age 62, if such

**§ 105(b)(2)

individual is entitled to widow's

insurance benefits for such month

on the basis of being under a disa-

bility, or (E)

\$140

such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than ~~\$125~~ in which

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), and (D) thereof.

**§ 106(a)(1)

**§ 105(b)(3)

(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be his earnings for such year in excess of the product of ~~\$125~~ multiplied by the number of months in such year, except that of the first \$1,200 of such excess (or all of such excess if it is less than \$1,200), an amount equal to one-half thereof shall not be included. The excess earnings as derived under the preceding sentence, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1.

**§ 106(a)(1)

*Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(h)). See also sec. 105(i) of Social Security Amendments of 1967, p.233.

**Applies with respect to taxable years ending after December 1967(sec. 106(b)).

*§ 105(b)(4)

(4) For purposes of clause ~~(D)~~ of paragraph (1)—

(E)

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

**§ 106(a)(1)

(B) An individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than ~~\$125~~ until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

\$140

(5) (A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) For purposes of this section—

(i) an individual's net earnings from self-employment for any taxable year shall be determined as provided in section 211, except that paragraphs (1), (4), and (5) of section 211(c) shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D), and

(ii) an individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in section 702(a)(9) of the Internal Revenue Code of 1954) taken into account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i).

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 209; and in making such computation services which do not constitute employment as defined in section 210, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

*Applies only with respect to monthly benefits under title II for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted (sec. 105(h)). See also sec. 105(i) of Social Security Amendments of 1967, p. 233.

**Applies with respect to taxable years ending after December 1967 (sec. 106(b)).

(D) In the case of an individual—

(i) who has attained the age of 65 on or before the last day of the taxable year, and

(ii) who shows to the satisfaction of the Secretary that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age of 65 and that the property to which the copyright or patent relates was created by his own personal efforts,

there shall be excluded from gross income any such royalties.

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons are entitled under section 202 for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this title) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 202(k)(3), and prior to the application of section 203(a)) bears to the total of the benefits to which all of them are entitled.

Penalty for Failure To Report Certain Events

(g) Any individual in receipt of benefits subject to deduction under subsection (c) (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event specified therein, who fails to report such occurrence to the Secretary prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred, shall suffer ~~an additional deduction equal to that imposed under subsection (c), except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month.~~

deductions in addition to those

imposed under subsection (c) as follows: (1) if such failure is the first with respect to which an additional deduction is imposed by this subsection, such additional deduction shall be equal to his benefit or benefits for the first month of the period for which there is a failure to report timely even though such failure is with respect to more than one month; (2) if such failure is the second with respect to which an additional deduction is imposed by this subsection,

§ 157(b)

§157(b)

such additional deduction shall be equal to two times his benefit or benefits for the first month of the period for which there is a failure to report even though such failure is with respect to more than two months; and (3) if such failure is the third or a subsequent one for which an additional deduction is imposed under this subsection, such additional deduction shall be equal to three times his benefit or benefits for the first month of the period for which there is a failure to report even though the failure to report is with respect to more than three months, except that the number of additional deductions required by this subsection shall not exceed the number of months in the period for which the individual received and accepted insurance benefits under section 202 without making a timely report and for which deductions are required under subsection (c).

Report of Earnings to Secretary

*§ 106(a)(2)

(h) (1) (A) If an individual is entitled to any monthly insurance benefit under section 202 during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f), in excess of the product of ~~\$125~~ ^{\$125} times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i)

\$140

*Applies with respect to taxable years ending after December 1967(sec. 106(b)).

beginning with or after the month in which such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection.

The Secretary may

grant a reasonable extension of time for making the formal report of earnings required in this subsection, but in no case may the period be extended more than three months.

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(B) If the benefit payments of an individual have been suspended for all months in any taxable year under the provisions of the first sentence of paragraph (3) of this subsection, no benefit payment shall be made to such individual for any such month in such taxable year after the expiration of the period of three years, three months, and fifteen days following the close of such taxable year unless within such period the individual, or some other person entitled to benefits under this title on the basis of the same wages and self-employment income, files with the Secretary information showing that a benefit for such month is payable to such individual.

(2) If an individual fails to make a report required under paragraph (1), within the time prescribed therein, for any taxable year and any deduction is imposed under subsection (b) by reason of his earnings for such year, he shall suffer additional deductions as follows:

(A) if such failure is the first one with respect to which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 202,

§ 157(a)

except that if the deduction imposed under subsection (b) by reason of his earnings for such year is less than the amount of his benefit (or benefits) for the last month of such year for which he was entitled to a benefit under section 202, the additional deduction shall be equal to the amount of the deduction imposed under subsection (b) but not less than \$10;

(B) if such failure is the second one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to two times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 202; .

(C) if such failure is the third or a subsequent one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to three times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 202;

except that the number of the additional deductions required by this paragraph with respect to a failure to report earnings for a taxable year shall not exceed the number of months in such year for which such individual received and accepted insurance benefits under section 202 and for which deductions are imposed under subsection (b) by reason of his earnings. In determining whether a failure to report earnings is the first or a subsequent failure for any individual, all taxable years ending prior to the imposition of the first additional deduction under this paragraph, other than the latest one of such years, shall be disregarded.

(3) If the Secretary determines, on the basis of information obtained by or submitted to him that it may reasonably be expected that an individual entitled to benefits under section 202 for any taxable year will suffer deductions imposed under subsection (b) by reason of his earnings for such year, the Secretary may, before the close of such taxable year, suspend the total or less than the total payment for each month in such year (or for only such months as the Secretary may specify) of the benefits payable on the basis of such individual's

wages and self-employment income; and such suspension shall remain in effect with respect to the benefits for any month until the Secretary has determined whether or not any deduction is imposed for such month under subsection (b). The Secretary is authorized, before the close of the taxable year of an individual entitled to benefits during such year, to request of such individual that he make, at such time or times as the Secretary may specify, a declaration of his estimated earnings for the taxable year and that he furnish to the Secretary such other information with respect to such earnings as the Secretary may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this paragraph that it may reasonably be expected that the individual will suffer deductions imposed under subsection (b) by reason of his earnings for such year. If, after the close of a taxable year of an individual entitled to benefits under section 202 for such year, the Secretary requests such individual to furnish a report of his earnings (as computed pursuant to paragraph (5) of subsection (f)) for such taxable year or any other information with respect to such earnings which the Secretary may specify, and the individual fails to comply with such request, such failure shall in itself constitute justification for a determination that such individual's benefits are subject to deductions under subsection (b) for each month in such taxable year (or only for such months thereof as the Secretary may specify) by reason of his earnings for such year.

Circumstances Under Which Deductions and Reductions Not Required

(i) In the case of any individual, deductions by reason of the provisions of subsection (b), (c), (g), or (h) of this section, or the provisions of section 222(b), shall, notwithstanding such provisions, be made from the benefits to which such individual is entitled only to the extent that such deductions reduce the total amount which would otherwise be paid, on the basis of the same wages and self-employment income, to such individual and the other individuals living in the same household.

Attainment of Age Seventy-Two

(j) For the purposes of this section, an individual shall be considered as seventy-two years of age during the entire month in which he attains such age.

Noncovered Remunerative Activity Outside the United States

(k) An individual shall be considered to be engaged in noncovered remunerative activity outside the United States if he performs services outside the United States as an employee and such services do not constitute employment as defined in section 210 and are not performed in the active military or naval service of the United States, or if he carries on a trade or business outside the United States (other than the performance of service as an employee) the net income or loss of which (1) is not includible in computing his net earnings from self-employment for a taxable year and (2) would not be excluded from net earnings from self-employment, if carried on in the United States, by any of the numbered paragraphs of section 211(a). When used in the preceding sentence with respect to a trade or business (other than the performance of service as an employee), the term "United States" does not include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa in the case of an alien who is not a resident of the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa); and the term "trade or business" shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1954.

Good Cause for Failure To Make Reports Required

(l) The failure of an individual to make any report required by subsection (g) or (h)(1)(A) within the time prescribed therein shall not be regarded as such a failure if it is shown to the satisfaction of the Secretary that he had good cause for failing to make such report within such time. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

Overpayments and Underpayments

Sec. 204. (a) Whenever an error has been made with respect to payments to an individual under this title (including payments made prior to January 1, 1940), proper adjustments shall be made, under regulations prescribed by the Secretary, by increasing or decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by increasing or decreasing subsequent benefits payable with respect to the wages and self-employment income which were the basis of benefits of such deceased individual.

(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault (including payments made prior to January 1, 1940), and where adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience.

(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.

~~(d) Notwithstanding the provisions of subsection (a), if an individual dies before any payment due him under this title is completed, and the total amount due at the time of his death does not exceed the amount of the monthly insurance benefit to which he was entitled for the month preceding the month in which he died, payment of the amount due shall be made—~~

~~(1) to the person, if any, determined by the Secretary to be the surviving spouse of the deceased individual and to have been living in the same household with the deceased at the time of his death, or~~

~~(2) if there is no such person, or if such person dies before receiving payment, to the legal representative of the estate of such deceased individual.~~

(d) Notwithstanding the provisions of subsection (a), if an individual dies before any payment due him under this title is completed, payment of the amount due (including the amount of any unnegotiated check) shall be made—

(1) to the person, if any, determined by the Secretary to be the surviving spouse of the deceased individual and to have been living in the same household with the deceased at the time of his death;

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(2) if there is no person who meets the requirements of paragraph (1), or if the person who meets such requirements dies before payment due him under this title is completed, to the person, if any, determined by the Secretary to be a spouse of the deceased individual who was, for the month in which the deceased individual died, entitled to a monthly benefit on the basis of the same wages and self-employment income as was the deceased individual;

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(3) if there is no person who meets the requirements of paragraph (1) or (2), or if each person who meets such requirements dies before payment due him under this title is completed, to the child or children, if any, of such deceased individual (and in case there is more than one such child, in equal parts to each such child) ;

(4) if there is no person who meets the requirements of paragraph (1), (2), or (3), or if each person who meets such requirements dies before payment due him under this title is completed, to the legal representative of the estate of such deceased individual;

(5) if there is no person who meets the requirements of paragraphs (1), (2), (3), or (4), or if each person who meets such requirements dies before payment due him under this title is completed, to such person or persons, related to such deceased individual by

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blood, marriage, or adoption, as the Secretary determines (under such regulations as he may prescribe) to be the proper person or persons to receive such payment on behalf of the estate of such deceased individual.

Evidence, Procedure, and Certification for Payment

Sec. 205. (a) The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(c) (1) For the purposes of this subsection—

(A) The term “year” means a calendar year when used with respect to wages and a taxable year (as defined in section 211 (e)) when used with respect to self-employment income.

(B) The term “time limitation” means a period of three years, three months, and fifteen days.

(C) The term “survivor” means an individual’s spouse, surviving divorced wife, surviving divorced mother, child, or parent, who survives such individual.

(2) On the basis of information obtained by or submitted to the Secretary, and after such verification thereof as he deems necessary, the Secretary shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(3) The Secretary's records shall be evidence for the purpose of proceedings before the Secretary or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

(4) Prior to the expiration of the time limitation following any year the Secretary may, if it is brought to his attention that any entry of wages or self-employment income in his records for such year is erroneous or that any item of wages or self-employment income for such year has been omitted from such records, correct such entry or include such omitted item in his records, as the case may be. After the expiration of the time limitation following any year—

(A) the Secretary's records (with changes, if any, made pursuant to paragraph (5)) of the amounts of wages paid to, and self-employment income derived by, an individual during any period in such year shall be conclusive for the purposes of this title;

(B) the absence of an entry in the Secretary's records as to the wages alleged to have been paid by an employer to an individual during any period in such year shall be presumptive evidence for the purposes of this title that no such alleged wages were paid to such individual in such period; and

(C) the absence of an entry in the Secretary's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive for the purposes of this title that no such alleged self-employment income was derived by such individual in such year unless it is shown that he filed a tax return of his self-employment income for such year before the expiration of the time limitation following such year, in which case the Secretary shall include in his records the self-employment income of such individual for such year.

(5) After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, or self-employment income was derived or alleged to have been derived by, an individual, the Secretary may change or delete any entry with respect to wages or self-employment income in his records of such year for such individual or include in his records of such year for such in-

dividual any omitted item of wages or self-employment income but only—

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Secretary's records of the wages paid to, or the self-employment income derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Secretary's decision on any such request shall be given to the individual who made the request;

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this title when they should have been credited under the Railroad Retirement Act, or to enter items transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act when they should have been credited under this title;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform his records to—

(i) tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, under chapter 2 or 21 of the Internal Revenue Code of 1954, or under regulations made under authority of such title, subchapter, or chapter;

(ii) wage reports filed by a State pursuant to an agreement under section 218 or regulations of the Secretary¹⁵³ thereunder; or

(iii) assessments of amounts due under an agreement pursuant to section 218, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

~~except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year)~~

except that no amount of self-employment income of an individual for any taxable year shall be included in the Secretary's records pursuant to this subparagraph unless such return or statement was filed either before the expiration of the time limitation following the taxable year or pursuant to an assessment of tax made under sections 6501 (c) and (e) of subchapter A of chapter 66 of the Internal Revenue Code of 1954;

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~~shall be included in the Secretary's records pursuant to this subparagraph;~~

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Secretary;

(H) to include wages paid during any period in such year to an individual by an employer if there is an absence of an entry in the Secretary's records of wages having been paid by such employer to such individual in such period;

(I) to enter items which constitute remuneration for employment under subsection (o), such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 5(k)(3) of the Railroad Retirement Act of 1937; or

(J) to include self-employment income for any taxable year, up to, but not in excess of, the amount of wages deleted by the Secretary as payments erroneously included in such records as wages paid to such individual, if such income (or net earnings from self-employment), not already included in such records as self-employment income, is included in a return or statement (referred to in subparagraph (F)) filed before the expiration of the time limitation following the taxable year in which such deletion of wages is made.

(6) Written notice of any deletion or reduction under paragraph (4) or (5) shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Secretary of the amount of his wages for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Secretary of the amount of such individual's wages and self-employment income for the period involved.

(7) Upon request in writing (within such period, after any change or refusal of a request for a change of his records pursuant to this subsection, as the Secretary may prescribe), opportunity for hearing with respect to such change or refusal shall be afforded to any individual or his survivor. If a hearing is held pursuant to this paragraph the Secretary shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall include any omitted items, or change or delete any entry, in his records as may be required by such findings and decision.

(8) Decisions of the Secretary under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (g).

(d) For the purpose of any hearing, investigation, or other proceeding authorized or directed under this title, or relative to any other matter within his jurisdiction hereunder, the Secretary shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates

to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpenas of the Secretary shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.

(f) No person so subpoenaed or ordered shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(g) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) hereof which is adverse to an individual who was a party to the hearing

before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) hereof, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(h) The findings and decision of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under Section 24 of the Judicial Code of the United States to recover on any claim arising under this title.

(i) Upon final decision of the Secretary, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this title, the Secretary shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Fiscal Service of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Secretary: *Provided*, That where a review of the Secretary's decision is or may be sought under subsection (g) the Secretary may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary.

(j) When it appears to the Secretary that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person.

(k) Any payment made after December 31, 1939, under conditions set forth in subsection (j), any payment made before January 1,

1940, to, or on behalf of, a legally incompetent individual, and any payment made after December 31, 1939, to a legally incompetent individual without knowledge by the Secretary of incompetency prior to certification of payment, if otherwise valid under this title, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

(l) The Secretary is authorized to delegate to any member, officer, or employee of the Department of Health, Education, and Welfare designated by him any of the powers conferred upon him by this section, and is authorized to be represented by his own attorneys in any court in any case or proceeding arising under the provisions of subsection (e).

(m) [Repealed.]

(n) The Secretary may, in his discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals for any month, and if one of such individuals dies before a check representing such joint payment is negotiated, payment of the amount of such unnegotiated check to the surviving individual or individuals may be authorized in accordance with regulations of the Secretary of the Treasury; except that appropriate adjustment or recovery shall be made under section 204(a) with respect to so much of the amount of such check as exceeds the amount to which such surviving individual or individuals are entitled under this title for such month.

Crediting of Compensation Under the Railroad Retirement Act

(o) If there is no person who would be entitled, upon application therefor, to an annuity under section 5 of the Railroad Retirement Act of 1937, or to a lump-sum payment under subsection (f)(1) of such section, with respect to the death of an employee (as defined in such Act), then notwithstanding section 210(a)(9) of this Act, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 4 of such Act if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 217 of this Act) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this title on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this title, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

Special Rules in Case of Federal Service

(p) (1) With respect to service included as employment under section 210 which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of subsection (1) (1) of such section are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 210(o) are applicable, the Secretary shall not make determinations as to whether an individual has performed such service, the periods of such service, the amounts of remuneration for such service which constitute wages under the provisions of section 209, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 3122 of the Internal Revenue Code of 1954 and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Secretary, to make certification to him with respect to any matter determinable for the Secretary by such head or his agents under this subsection, which the Secretary finds necessary in administering this title.

(3) The provisions of paragraphs (1) and (2) shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of paragraphs (1) and (2) the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of paragraphs (1) and (2) shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of paragraphs (1) and (2) the Secretary of the Treasury shall be deemed to be the head of such instrumentality.

Crediting of Pay or Salary Under Civil Service Retirement
or Foreign Service Retirement

(q) (1) Notwithstanding paragraphs (5) and (6) of
section 210 (a) —

(A) the basic pay (as defined in section 8331 (3)
of title 5, United States Code) of an individual attribut-
able to service (other than service described in section
8331 (14) of title 5, United States Code) to which Civil § 116(a)
Service Retirement (Ch. 83, subch. III of title 5, United
States Code) applies and which is performed after June
30, 1966, or

(B) the basic salary (as determined by the Secre-
tary of State pursuant to regulations) of an individual
attributable to service to which title VIII of the Foreign
Service Act of 1946 applies and which is performed after
June 30, 1966,

shall constitute remuneration for employment under this title
if, after December 31, 1967, such individual is separated by
reason of death, disability, transfer (other than transfer to
service to which such Civil Service Retirement or such For-
eign Service Act of 1946, or the Central Intelligence Agency
Retirement Act of 1964 for Certain Employees applies), or
otherwise, from service to which such Civil Service Retire-
ment or such Foreign Service Act of 1946 applies and

§116(a)

neither such individual nor any of his survivors is entitled to an annuity (deferred or otherwise) under such Civil Service Retirement or such Foreign Service Act of 1946 on the basis of such individual's service. The preceding provisions of this paragraph shall not apply with respect to remuneration for (i) any period of service that terminated before the second month following the month of enactment of the Social Security Amendments of 1967 and (ii) service performed outside of the United States by an individual who is not a citizen or national of the United States.

(2) The Chairman of the Civil Service Commission or the Secretary of State, as the case may be, shall, at the request of the Secretary of Health, Education, and Welfare, furnish him a record of such individual's service, basic pay and basic salary, together with a certification that such individual meets the requirements of paragraph (1). Such report and certification shall be final and conclusive upon the Secretary of Health, Education, and Welfare. Pay or salary paid to any individual in any calendar year and included in any such report shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in such year in which such individual performed service for such pay or salary, as the case may be.

Representation of Claimants

Sec. 206. (a) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Secretary, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.

(b) (1) Whenever a court renders a judgment favorable to a claimant under this title who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment, and the Secretary may, notwithstanding the provisions of section 205(i), certify the amount of such fee for payment to such attorney out of, and not in addition to, the amount of such past-due benefits. In case of any such judgment, no other fee may be payable or certified for payment for such representation except as provided in this paragraph.

(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings before a court to which paragraph (1) is applicable any amount in excess of that allowed by the court thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500, or imprisonment for not more than one year, or both.

Assignment

Sec. 207. The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Penalties

Sec. 208. Whoever—

(a) for the purpose of causing an increase in any payment authorized to be made under this title, or for the purpose of causing any payment to be made where no payment is authorized under this title, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to—

(1) whether wages were paid or received for employment (as said terms are defined in this title and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(2) whether net earnings from self-employment (as such term is defined in this title and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(3) whether a person entitled to benefits under this title had earnings in or for a particular period (as determined under section 203(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(b) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this title; or

(c) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this title; or

(d) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this title, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(e) having made application to receive payment under this title for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

Definition of Wages

Sec. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a)(1) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$3,600 with respect to employment has been paid to an individual during any calendar year prior to 1955, is paid to such individual during such calendar year;

(2) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$4,200 with respect to employment has been paid to an individual during any calendar year after 1954 and prior to 1959, is paid to such individual during such calendar year;

(3) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$4,800 with respect to employment has been paid to an individual during any calendar year after 1958 and prior to 1966, is paid to such individual during such calendar year;

(4) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$6,600 with respect to employment has been paid to an individual during any calendar year after 1965, is paid to such individual during such calendar year;

and prior to
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*§ 107(a)(1)(A)

(5) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$7,800 with respect to employment has been paid to an individual during any calendar year after 1967 and prior to 1971, is paid to such individual during any such calendar year;

*§ 107(a)(1)(B)

*Applies only with respect to remuneration paid after December 1967(sec. 107(c).)

§107(a)(1)(B)

(6) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$9,000 with respect to employment has been paid to an individual during any calendar year after 1970 and prior to 1974, is paid to such individual during any such calendar year;

(7) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$10,800 with respect to employment has been paid to an individual during any calendar year after 1973, is paid to such individual during such calendar year;

(b) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (1) retirement, or (2) sickness or accident disability, or (3) medical or hospitalization expenses in connection with sickness or accident disability, or (4) death;

(c) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(d) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section

165(a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501(a) of the Internal Revenue Code of 1954, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a) (3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954 and prior to 1963, the requirements of section 401(a) (3), (4), (5), and (6) of the Internal Revenue Code of 1954; or (3) under or to an annuity plan which, at the time of any such payment after 1962, is a plan described in section 403(a) of the Internal Revenue Code of 1954, or (4) under or to a bond purchase plan which, at the time of any such payment after 1962, is a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1954;

(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code of 1939, or in the case of a payment after 1954 under section 3101 of the Internal Revenue Code of 1954, or (2) of any payment required from an employee under a State unemployment compensation law;

(g)(1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 210(f) (5);

(3) Cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 210(f)(5);

(h) (1) Remuneration paid in any medium other than cash for agricultural labor;

*§ 115(a)

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (A) the cash remuneration paid in such year by the employer to the employee for such labor is \$50 or more, or (B) the employee performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis;

\$50

ten

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62 (if a woman) or age 65 (if a man), if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 218(b)(2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness;

(j) Remuneration paid by an employer in any quarter to an employee for service described in section 210(j)(3)(C) (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50;

(k) Remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the Internal Revenue Code of 1954; or

(1) (1) Tips paid in any medium other than cash;

(2) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more.

*Applies with respect to remuneration paid after December 1967(sec. 115(d).)

For purposes of this title, in the case of domestic service described in subsection (g)(2), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to \$1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g)(2).

For purposes of this title, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 210(1)(1) are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act.

For purposes of this title, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 210(o) are applicable, (1) the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only amounts certified as payable pursuant to section 5(c) or 6(1) of the Peace Corps Act, and (2) any such amount shall be deemed to have been paid to such individual at the time the service, with respect to which it is paid, is performed.

For purposes of this title, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received.

Definition of Employment

Sec. 210. For the purposes of this title—

Employment

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e)), or (ii) of a foreign subsidiary (as defined in section 3121(l) of the Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of the Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) (A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 3111 of the Internal Revenue Code of 1954 by virtue of any provisions of law which specifically refers to such section in granting such exemption;

(6) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939 on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) in the legislative branch;

(iii) in a penal institution of the United States by an inmate thereof;

(iv) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government; 5 U.S.C., sec. 1052), other than as a medical or dental intern or a medical or dental resident in training;

(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

(vi) by any individual to whom the Civil Service Retirement Act does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority);

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

(A) service included under an agreement under section 218,

(B) service which, under subsection (k), constitutes covered transportation service, or

(C) service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this title—

(i) any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an officer or employee of the United States or any agency or instrumentality thereof, and

(ii) the remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby, whichever is appropriate, or

(D) service performed in the employ of the District of Columbia or any instrumentality which is wholly owned thereby, if such service is not covered by a retirement system established by a law of the United States; except that the provisions of this subparagraph shall not be applicable to service performed—

(i) in a hospital or penal institution by a patient or inmate thereof;

(ii) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government; 5 U.S.C. 1052), other than as a medical or dental intern or as a medical or dental resident in training;

(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency; or

(iv) by a member of a board, committee, or council of the District of Columbia, paid on a per diem, meeting, or other fee basis;

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(8) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501

(c)(3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of such Code, but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3121(k) of the Internal Revenue Code of 1954, is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed by such organization under such section 3121(k),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed, or

(iii) who, after the calendar quarter in which the certificate was filed with respect to a group described in paragraph (1)(E) of such section 3121(k), became a member of such group,

except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in such paragraph (1)(E) with respect to which no certificate is in effect;

(9) Service performed by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1954;

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if the remuneration for such service is less than \$50;

(B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law;

(14) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under

an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazine are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(15) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669);

(16) Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced;

§110(d)(1)*

(17) Service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

§110(d)(1)*

(18) Service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)); or

(19) Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be.

(17)

(18)

Included and Excluded Service

(b) If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of

*Applicable with respect to services performed on or after the first day of the calendar quarter which commences after the date of enactment of H.R. 5710 (sec. 106(e)(2)).

the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (a).

American Vessel

(c) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

American Aircraft

(d) The term "American aircraft" means an aircraft registered under the laws of the United States.

American Employer

(e) The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing, (3) an individual who is a resident of the United States, (4) a partnership, if two-thirds or more of the partners are residents of the United States, (5) a trust, if all of the trustees are residents of the United States, or (6) a corporation organized under the laws of the United States or of any State.

Agricultural Labor

(f) The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or water-

ways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

The provisions of subparagraphs (A) and (B) of paragraph (4) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

Farm

(g) The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

State

(h) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

United States

(i) The term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Employee

(j) The term "employee" means—

- (1) any officer of a corporation; or
- (2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or
- (3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit prod-

ucts, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed. *CR*

(4) any individual who performs services for remuneration (whether on a share basis or any other basis) as an officer or member of the crew of a vessel while it is engaged in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including services performed by any such individual as an ordinary incident to any such activity); except that an individual shall not be included in the term 'employee' under the provisions of this paragraph if, pursuant to the provisions of subsection (p), any officer or member of the crew of such vessel is deemed to be his employee; or

§117(a)(1)*

(5) any individual who performs services for remuneration in the loading or unloading of the contents of a truck, truck or tractor trailer, or similar conveyance.

*This amendment shall have the same effect as if included in the Social Security Act on January 1, 1951 (sec. 117(a)(3)).

Covered Transportation Service

(k) (1) Except as provided in paragraph (2), all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951; except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment in connection with the operation of such part of the transportation system acquired by the State or political subdivision, the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C).

(3) All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) For the purposes of this subsection—

(A) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this title, and some of such employees become employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions.

Service in the Uniformed Services

(1)(1) Except as provided in paragraph (4), the term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) The term "active duty" means "active duty" as described in section 102 of the Servicemen's and Veterans' Survivor Benefits Act, except that it shall also include "active duty for training" as described in such section.

(3) The term "inactive duty training" means "inactive duty training" as described in such section 102.

(4) (A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 4 of the Railroad Retirement Act of 1937. The Railroad Retirement Board shall notify the Secretary of Health, Education, and Welfare, as provided in section 4(p)(2) of that Act, with respect to all such service which is so creditable.

(B) In any case where benefits under this title are already payable on the basis of such individual's wages and self-employment income at the time such notification (with respect to such individual) is received by the Secretary, the Secretary shall certify no further benefits for payment under this title on the basis of such individual's wages and self-employment income, or shall recompute the amount of any further benefits payable on the basis of such wages and self-employment income, as may be required as a consequence of subparagraph (A) of this paragraph. No payment of a benefit to any person on the basis of such individual's wages and self-employment income, certified by the Secretary prior to the end of the month in which he receives such notification from the Railroad Retirement Board, shall be deemed by reason of this subparagraph to have been an erroneous payment or a payment to which such person was not entitled. The Secretary shall, as soon as possible after the receipt of such notification from the Railroad Retirement Board, advise such Board whether or not any such benefit will be reduced or terminated by reason of subparagraph (A), and if any such benefit will be so reduced or terminated, specify the first month with respect to which such reduction or termination will be effective.

Member of a Uniformed Service

(m) The term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act), or in one of those services without specification of component, or as a commissioned officer of the Coast and Geodetic Survey or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—

- (1) a retired member of any of those services;
- (2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;
- (3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and

(5) any person while en route to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) who has been provisionally accepted for such duty;

or

(B) who, under the Universal Military Training and Service Act, has been selected for active military or naval service; and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

Crew Leader

(n) The term "crew leader" means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. A crew leader shall, with respect to services performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

Peace Corps Volunteer Service

(o) The term "employment" shall, notwithstanding the provisions of subsection (a), include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act.

Owners and Lessees of Vessels

(p) For purposes of this title an individual who is an employee under the provisions of subsection (d) (4) shall be deemed to be the employee of the owner of the vessel on or in connection with which his services are performed except that if (1) such vessel has been chartered or leased by the owner and the owner has no interest of any kind in the fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life caught, taken, harvested, cultivated, or farmed by such vessel, or in the pro-

*This amendment shall have the same effect as if included in the Social Security Act on January 1, 1951 (sec. 117(a)(3)).

ceeds thereof, such individual shall be deemed to be the employee of the charterer or lessee of such vessel. If by reason of the preceding sentence an individual is deemed to be the employee of more than one charterer or lessee, and one or more (but less than all) of such charterers or lessees is not an officer or member of the crew of such vessel, such individual shall be deemed to be the employee of each of the charterers or lessees who is not an officer or member of the crew of such vessel.

Truck Loaders and Unloaders

§117(a)(2)*

(q) For purposes of this title an individual who is an employee under the provisions of subsection (d) (5) shall be deemed to be the employee of the driver in charge of the truck or other conveyance in connection with which his service is performed, except that if such driver is the employee of another person in respect of services he performs as the driver of such truck or other conveyance, such individual shall be deemed to be the employee of such other person. However, the preceding sentence shall not apply with respect to an individual if it can be shown by such driver or his employer that a person other than such driver or employer has acknowledged in writing on a form to be prescribed by the Secretary of the Treasury or his delegate that he has the responsibility for collecting and paying the taxes imposed by the Federal Insurance Contributions Act with respect to such loading or unloading services performed by such individual, in which event the person who has made such acknowledgment in writing shall be deemed to be the employer or of such individual.

*This amendment shall have the same effect as if included in the Social Security Act on January 1, 1951 (sec. 117(a)(3)).

Self-Employment

Sec. 211. For the purposes of this title—

Net Earnings From Self-Employment

(a) The term "net earnings from self-employment" means the gross income, as computed under Subtitle A of the Internal Revenue Code of 1954, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(9) of the Internal Revenue Code of 1954, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such

rentals paid in crop shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 35 of the Internal Revenue Code of 1954) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss (A) which is considered under Subtitle A of the Internal Revenue Code of 1954 as gain or loss from the sale or exchange of a capital asset, (B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 of the Internal Revenue Code of 1954 applies to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 172 of such code shall not be allowed;

(5) (A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife;

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of the Commonwealth of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 933 of the Internal Revenue Code of 1954;

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 210(e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of such Code; and

(8) The term "possession of the United States" as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) of the Internal Revenue Code of 1954 shall be deemed not to include the Virgin Island, Guam, or American Samoa.

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If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 210(f)—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than \$2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than \$2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,600; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payment to which section 707 (c) of the Internal Revenue Code of 1954 applies) is not more than \$2,400, his distributive share of income described in section 702(a)(9) of such Code derived from such trade or business may, at his option, be deemed to be an amount equal to 66 $\frac{2}{3}$ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1954 applies) is more than \$2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,600, his distributive share of income described in such section 702(a)(9) derived from such trade or business may, at his option, be deemed to be \$1,600.

For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

Self-Employment Income

(b) The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a non-resident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) \$3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and prior to 1959, (i) \$4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958 and prior to 1966, (i) \$4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

and prior
to 1968
and

(D) For any taxable year ending after 1965, (i) \$6,600, minus (ii) the amount of the wages paid to such individual during the taxable year; ~~or~~

§107(a)(2)(A)*

(E) For any taxable year ending after 1967 and prior to 1971, (i) \$7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

§107(a)(2)(B)*

(F) For any taxable year ending after 1970 and prior to 1974, (i) \$9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(G) For any taxable year ending after 1973, (i) \$10,800, minus (ii) the amount of the wages paid to such individual during the taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for the purposes of this subsection, be considered to be a nonresident alien individual.

*Applicable only with respect to taxable years ending after 1967 (sec. 107(c)).

Trade or Business

(c) The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1954, except that such term shall not include—

- (1) The performance of the functions of a public office;
- (2) The performance of service by an individual as an employee, other than—
 - (A) service described in section 210(a)(14)(B) performed by an individual who has attained the age of eighteen,
 - (B) service described in section 210(a)(16),
 - (C) service described in section 210(a)(11), (12), or (15) performed in the United States by a citizen of the United States, and
 - (D) service described in paragraph (4) of this subsection;
- (3) The performance of service by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1954;
- (4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
- (5) The performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or
- (6) The performance of service by an individual during the period for which an exemption under section 1402(h) of the Internal Revenue Code of 1954 is effective with respect to him.

The provisions of paragraph (4) or (5) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual during the period for which a certificate filed by him under section 1402(e) of the Internal Revenue Code of 1954 is in effect.

Partnership and Partner

(d) The term "partnership" and the term "partner" shall have the same meaning as when used in subchapter K of chapter 1 of the Internal Revenue Code of 1954.

Taxable Year

(e) The term "taxable year" shall have the same meaning as when used in subtitle A of the Internal Revenue Code of 1954; and the taxable year of any individual shall be a calendar year unless he has a different taxable year for the purposes of subtitle A of such code, in which case his taxable year for the purposes of this title shall be the same as his taxable year under such subtitle A.

Partner's Taxable Year Ending as Result of Death

(f) In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first

day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) the term "deceased partner's distributive share" includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest.

Crediting of Self-Employment Income to Calendar Quarters

Sec. 212. For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year shall be credited to calendar quarters as follows:

(a) In the case of a taxable year which is a calendar year the self-employment income of such taxable year shall be credited equally to each quarter of such calendar year.

(b) In the case of any other taxable year the self-employment income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

Quarter and Quarter of Coverage

Definitions

Sec. 213. (a) For the purposes of this title—

(1) The term "quarter", and the term "calendar quarter", means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2) The term "quarter of coverage" means a quarter in which the individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with \$100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal \$3,000 in the case of a calendar year before 1951, or \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958 and before 1966, or \$6,600 in the case of a calendar year

~~after 1965~~

after 1965 and before 1968, or \$7,800 in the case

§107(a)(3)(A)* of a calendar year after 1967 and before 1971, or \$9,000 in
the case of a calendar year after 1970 and before 1974, or
\$10,800 in the case of a calendar year after 1973,

each quarter of such year shall (subject to clause
(i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a
taxable year, and if the sum of such income and the wages
paid to him during such year equals \$3,600 in the case of a
taxable year beginning after 1950 and ending before 1955, or
\$4,200 in the case of a taxable year ending after 1954 and
before 1959, or \$4,800 in the case of a taxable year ending
after 1958 and before 1966, or \$6,600 in the case of a taxable
year ending ~~after 1965~~

§107(a)(3)(B)** after 1965 and prior to 1968, or \$7,800 in the case of a
taxable year ending after 1967 and prior to 1971, or \$9,000
in case of a taxable year ending after 1970 and prior to
1974, or \$10,800 in the case of a taxable year ending after
1973,

each quarter any part of which
falls in such year shall (subject to clause (i)) be a quarter
of coverage;

§115(b)***

(iv) if an individual is paid wages for agricultural labor
in a calendar year after 1954, then, subject to clause (i), (a)
the last quarter of such year which can be but is not other-
wise a quarter of coverage shall be a quarter of coverage if
such wages equal or exceed ~~\$100~~ but are less than ~~\$200~~; (b)
the last two quarters of such year which can be but are not
otherwise quarters of coverage shall be quarters of coverage
if such wages equal or exceed ~~\$200~~ but are less than ~~\$300~~; (c)
the last three quarters of such year which can be but are not
otherwise quarters of coverage shall be quarters of coverage
if such wages equal or exceed ~~\$300~~ but are less than ~~\$400~~; and
(d) each quarter of such year which is not otherwise a quar-
ter of coverage shall be a quarter of coverage if such wages
are ~~\$400~~ or more; and

\$50 / \$100

\$100 / \$150

\$150 / \$200

\$200

*Applicable only with respect to remuneration paid after December 1967 (sec.107(c)).

**Applicable only with respect to taxable years ending after 1967 (sec. 107(c)).

***Applicable in the case of monthly benefits under title II of the Act for months
after December 1967, on the basis of applications filed after such month; in the case
of lump-sum death payments under such title, with respect to deaths occurring after
such month; and in the case of applications under section 216(i) of such Act or
under section 103 of the Social Security Amendments of 1965, with respect to appli-
cations filed after such month (sec. 115(d)).

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.

If, in the case of any individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 214(a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

Crediting of Wages Paid in 1937

(b) With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than \$100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than \$100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

Alternative Method for Determining Quarters of Coverage

With Respect to Wages in the Period from 1937 to 1951

§154(i)*

(c) (1) In the case of any individual with respect to whom at least six of the quarters elapsing after 1950 are quarters of coverage, a quarter of coverage with respect to

*See sec. 154(j) of Social Security Amendments of 1967, p. 238.

wages paid to such individual prior to 1951 shall, for purposes of section 214, be a quarter to which there is allocated at least \$400.

§154(1)*

(2) For purposes of paragraph (1), an individual's total wages (as defined in section 215(b)(2)(E)) paid prior to 1951 shall be allocated as follows: \$400 shall be allocated to the last quarter of 1950 and to each preceding quarter shall be allocated \$400 until the total number of quarters so allocated equals the integer derived by dividing such total wages by \$400.

(3) The provisions of this subsection shall not apply in the case of an individual with respect to whom the number of quarters of coverage derived under subsection (b)(2) for wages paid prior to 1951 is greater than the number of such quarters of coverage derived under this subsection.

Insured Status for Purposes of ~~Old Age~~ and Survivors Insurance Benefits

Retirement

Sec. 214. For the purposes of this title—

Fully Insured Individual

(a) The term "fully insured individual" means any individual who had not less than—

(1) one quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 (or, if later, the year in which he attained age 21) and before—

(A) in the case of a woman, the year in which she died or (if earlier) the year in which she attained age 62,

(B) in the case of a man who has died, the year in which he died or (if earlier) the year in which he attained age 65, or

(C) in the case of a man who has not died, the year in which he attained (or would attain) age 65, except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage; or

(2) 40 quarters of coverage; or

(3) in the case of an individual who died before 1951, 6 quarters of coverage;

not counting as an elapsed year for purposes of paragraph (1) any year any part of which was included in a period of disability (as defined in section 216(i)).

*See sec. 154(j) of the Social Security Amendments of 1967, p. ²³⁸.

Currently Insured Individual

retirement

(b) The term "currently insured individual" means any individual who had not less than six quarters of coverage during the thirteen-quarter period ending with (1) the quarter in which he died, (2) the quarter in which he became entitled to ~~old-age~~ insurance benefits, (3) the quarter in which he became entitled to primary insurance benefits under this title as in effect prior to the enactment of this section, or (4) in the case of any individual entitled to disability insurance benefits, the quarter in which he most recently became entitled to disability insurance benefits, not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage.

Computation of Primary Insurance Amount

Sec. 215. For the purposes of this title—

(a) Subject to the conditions specified in subsections (b), (c), and (d) of this section, the primary insurance amount of an insured individual shall be whichever of the following is the largest:

§ 154(a)(1)(A)*

(1) The amount in column ~~IV~~ on the line on which in column ~~II~~ of the following table appears his average monthly wage (as determined under subsection (b));

§ 154(a)(1)(B)*

(2) The amount in column ~~IV~~ on the line on which in column ~~II~~ of the following table appears his primary insurance amount (as determined under subsection (c));

§ 154(a)(1)(C)*

(3) The amount in column IV on the line on which in column I of the following table appears his primary insurance benefit (as determined under subsection (d)); or

§ 102(a)**

(4) In the case of an individual who was entitled to a disability insurance benefit for the month before the month in which he died, became entitled to old-age insurance benefits, or attained age 65, the amount in column ~~IV~~, which is equal to the primary insurance amount upon which such disability insurance benefit is based;

§ 154(a)(1)(D)*

(3)

retirement

III

; or

* Applicable in the case of an individual (a) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j)). Also see sec. 101(g) of Social Security Amendments of 1967, 232.

**Applicable with respect to monthly insurance benefits under title II of the Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month (sec. 102(d)).

(4)

~~(5)~~ An amount equal to \$4 multiplied by his years of coverage.

§ 154(a)(1)(E)*

For purposes of paragraph (5), an individual's "years of coverage" is the number (not exceeding 25) equal to the sum of (A) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him for years after 1936 and before 1951 by \$900, plus (B) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b) (2) (C)) and in each of which he is credited with wages and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for each such year.

§ 102(a)**

*Applicable in the case of an individual (a) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j))

**Applicable with respect to monthly insurance benefits under title II of the Social Security Act for the months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 102(d)).

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1958 Act, as modified)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
\$13.49	\$13.48	\$40	\$68	\$67	\$44.00	\$66.00
14.01	14.00	41	69	68	45.00	67.50
14.49	14.48	42	70	69	46.00	69.00
15.01	15.00	43	71	70	47.00	70.50
15.51	15.50	44	73	72	48.00	72.00
16.01	16.00	45	75	74	49.00	73.50
16.21	16.20	46	77	76	50.00	75.00
16.85	16.84	47	79	78	51.00	76.50
17.61	17.60	48	81	80	52.00	78.00
18.41	18.40	49	82	81	53.00	79.50
19.25	19.24	50	84	83	54.00	81.00
20.01	20.00	51	86	85	55.00	82.50
20.65	20.64	52	88	87	56.00	84.00
21.29	21.28	53	90	89	57.00	85.50
21.89	21.88	54	91	90	58.00	87.00
22.29	22.28	55	93	92	59.00	88.50
22.69	22.68	56	95	94	60.00	90.00
23.09	23.08	57	97	96	61.00	91.50
23.45	23.44	58	99	98	62.10	93.20
23.77	23.76	59	101	100	63.20	94.80
24.21	24.20	60	102	101	64.20	96.30
24.61	24.60	61	103	102	65.30	98.00
25.01	25.00	62	105	104	66.40	99.60
25.49	25.48	63	107	106	67.50	101.30
25.93	25.92	64	108	107	68.50	102.80
26.41	26.40	65	110	109	69.60	104.40
26.95	26.94	66	114	113	70.70	106.10
27.47	27.46	67	119	118	71.70	107.60
28.01	28.00	68	123	122	72.80	109.20
28.69	28.68	69	128	127	73.90	110.90
29.26	29.25	70	133	132	74.90	112.40
29.69	29.68	71	137	136	76.00	114.00
30.37	30.36	72	142	141	77.10	116.80
30.93	30.92	73	147	146	78.20	120.00
31.37	31.36	74	151	150	79.20	124.00
32.01	32.00	75	156	155	80.30	128.00
32.61	32.60	76	161	160	81.40	131.20
33.21	33.20	77	165	164	82.40	135.20
33.89	33.88	78	170	169	83.50	139.20
34.51	34.50	79	175	174	84.60	142.40
35.01	35.00	80	179	178	85.60	146.40
35.81	35.80	81	184	183	86.70	150.40
36.41	36.40	82	189	188	87.80	154.40
37.09	37.08	83	194	193	88.90	157.60
37.61	37.60	84	198	197	89.90	161.60
38.21	38.20	85	203	202	91.00	165.60
39.13	39.12	86	208	207	92.10	168.80
39.69	39.68	87	212	211	93.10	172.80
40.34	40.33	88	217	216	94.20	176.80
41.13	41.12	89	222	221	95.30	180.00
41.77	41.76	90	226	225	96.30	184.00
42.45	42.44	91	231	230	97.40	188.00
43.21	43.20	92	236	235	98.50	191.20
43.77	43.76	93	240	239	99.60	195.20
44.45	44.44	94	245	244	100.60	199.20
44.89	44.88	95	250	249	101.70	202.40
	45.60	96	254	253	102.80	206.40
		97	259	258	103.80	210.40
		98	264	263	104.90	213.60
		99	268	267	106.00	217.60
		100	273	272	107.00	221.60
		101	278	277	108.10	224.80

§ 101(a)*

* Applicable with respect to monthly insurance benefits under title II of the Social Security Act for the months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)).

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS —Continued

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1958 Act, as modified)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefit)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraph of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		\$102	\$282	\$286	\$109.20	\$228.80
		103	287	291	110.30	232.80
		104	292	295	111.30	236.00
		105	298	300	112.40	240.00
		106	301	305	113.50	244.00
		107	306	309	114.60	247.20
		108	310	314	115.60	251.20
		109	315	319	116.70	255.20
		110	320	323	117.70	258.40
		111	324	328	118.80	262.40
		112	329	333	119.90	263.40
		113	334	337	121.00	269.60
		114	338	342	122.00	273.60
		115	343	347	123.10	277.60
		116	348	351	124.20	280.80
		117	352	356	125.20	284.80
		118	357	361	126.30	288.80
		119	362	365	127.40	292.00
		120	366	370	128.40	294.00
		121	371	375	129.50	296.00
		122	376	379	130.60	299.60
		123	380	384	131.70	301.60
		124	385	389	132.70	303.60
		125	390	393	133.80	306.20
		126	394	398	134.90	307.20
		127	399	403	135.90	309.20
			404	407	137.00	310.80
			408	412	138.00	312.80
			413	417	139.00	314.80
			418	421	140.00	316.40
			422	426	141.00	318.40
			427	431	142.00	320.40
			432	436	143.00	322.40
			437	440	144.00	324.00
			441	445	145.00	326.00
			446	450	146.00	328.00
			451	454	147.00	329.60
			455	459	148.00	331.60
			460	464	149.00	333.60
			465	468	150.00	335.20
			469	473	151.00	337.20
			474	478	152.00	339.20
			479	482	153.00	340.80
			483	487	154.00	342.80
			488	492	155.00	344.80
			493	496	156.00	346.40
			497	501	157.00	348.40
			502	506	158.00	350.40
			507	510	159.00	352.00
			511	515	160.00	354.00
			516	520	161.00	356.00
			521	524	162.00	357.60
			525	529	163.00	359.60
			530	534	164.00	361.60
			535	538	165.00	363.20
			539	543	166.00	365.20
			544	548	167.00	367.20
			549	550	168.00	368.00

§ 101(a)*

*. Applicable with respect to monthly insurance benefits under title II of the Social Security Act for the months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)).

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1965 Act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 205(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
.....	\$23.08	\$20.00 or less	---	\$98	\$70.00	\$105.00
\$23.08	23.44	61.00	\$97	97	70.20	105.30
23.44	23.79	62.10	98	98	71.50	107.80
23.79	24.20	63.20	100	101	72.70	108.10
24.20	24.80	64.20	102	102	73.90	110.90
24.80	25.00	65.30	108	104	75.10	112.70
25.00	25.45	66.40	105	105	76.40	114.60
25.45	25.92	67.50	107	107	77.70	116.60
25.92	26.40	68.50	108	108	78.80	118.20
26.40	26.94	69.60	110	113	80.10	120.20
26.94	27.46	70.70	114	118	81.40	122.10
27.46	28.00	71.70	119	122	82.80	123.60
28.00	28.68	72.80	125	127	83.80	125.70
28.68	29.25	73.90	128	132	85.00	127.50
29.25	29.38	74.90	133	136	86.20	129.30
29.38	30.38	76.00	137	141	87.40	131.10
30.38	30.92	77.10	142	146	88.70	133.10
30.92	31.56	78.20	147	150	90.00	135.00
31.56	32.00	79.20	151	155	91.10	136.70
32.00	32.60	80.30	156	160	92.40	138.60
32.60	33.20	81.40	161	164	93.70	140.60
33.20	33.86	82.40	165	169	94.80	142.20
33.86	34.50	83.50	170	174	96.10	144.20
34.50	35.00	84.60	175	178	97.30	146.00
35.00	35.80	85.70	179	183	98.50	147.80
35.80	36.46	86.70	184	188	99.80	150.40
36.46	37.08	87.80	189	193	101.00	154.40
37.08	37.70	88.90	194	197	102.30	157.80
37.70	38.30	89.90	198	202	103.40	161.00
38.30	38.9	91.00	203	207	104.70	164.60
38.9	39.58	92.10	208	211	105.00	168.80
39.58	40.25	93.10	212	216	107.10	172.80
40.25	41.12	94.20	217	221	108.40	176.80
41.12	41.78	95.30	222	225	109.60	180.00
41.78	42.44	96.30	226	230	110.80	184.00
42.44	43.20	97.40	231	235	112.10	188.00
43.20	43.78	98.40	236	239	113.30	191.20
43.78	44.44	99.50	240	244	114.80	195.20
44.44	44.88	100.60	245	249	115.70	199.20
44.88	45.00	101.70	250	253	117.00	202.40

§ 101(a)*

§ 154(a)(2)**

*Applicable with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)).

**Applicable in the case of an individual (a) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j))

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS--Continued

I Primary Insurance benefit under 1959 Act, as modified		II (Primary Insurance amount under 1953 Act)	III (Average monthly wage)		IV (Primary Insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as de- termined under subsec. (a)) is--		Or his primary insurance amount (as deter- mined under subsec. (c)) is--	Or his average monthly wage (as determined under subsec. (b)) is--		The amount referred to in the preceding para- graph of this subsection shall be--	And the maximum amount of bene- fits payable (as provided in sec. 202(a)) on the basis of his wages and self-employ- ment income shall be--
At least--	But not more than--		At least--	But not more than--		
		\$102.80	\$254	\$258	\$118.30	\$208.40
		103.80	259	263	119.40	210.40
		104.90	264	267	120.70	215.60
		106.00	268	272	121.90	217.60
		107.00	273	277	123.10	221.60
		108.10	278	281	124.40	224.60
		109.20	282	286	125.60	228.60
		110.30	287	291	126.90	232.60
		111.30	292	296	128.00	234.60
		112.40	296	300	129.30	240.00
		113.50	301	306	130.60	244.00
		114.50	306	309	131.70	247.20
		115.80	310	314	133.00	251.20
		116.70	315	319	134.30	256.20
		117.70	320	323	135.40	258.60
		118.80	324	328	136.70	261.40
		119.90	329	333	137.90	264.40
		121.00	334	337	139.20	268.60
		122.00	338	342	140.30	273.60
		123.10	343	347	141.60	277.60
		124.20	348	351	142.90	280.80
		125.20	352	356	144.00	284.60
		126.30	357	361	145.30	288.60
		127.40	362	365	146.80	292.00
		128.40	366	370	147.70	294.00
		129.50	371	375	149.00	300.00
		130.60	376	379	150.20	303.20
		131.70	380	384	151.60	307.20
		132.70	385	389	152.70	311.20
		133.80	390	393	153.90	314.40
		134.90	394	398	155.20	318.40
		135.90	399	403	156.30	322.40
		137.00	404	407	157.60	325.60
		138.00	408	412	158.70	329.60
		139.00	413	417	159.90	333.60
		140.00	418	421	161.00	338.60
		141.00	422	426	162.70	340.60
		142.00	427	431	163.80	344.60
		143.00	432	436	164.60	348.60
		144.00	437	440	165.00	352.60
		145.00	441	445	166.00	354.60
		146.00	446	450	167.90	360.00
		147.00	451	454	169.10	361.80
		148.00	455	459	170.20	363.60
		149.00	460	464	171.40	366.60
		150.00	465	468	172.60	367.20
		151.00	469	473	173.70	368.20
		152.00	474	478	174.80	371.20
		153.00	479	482	176.00	372.60
		154.00	483	487	177.10	374.60
		155.00	488	492	178.30	378.60
		156.00	493	496	179.40	378.40
		157.00	497	501	180.60	383.40
		158.00	502	506	181.70	383.40
		159.00	507	510	182.90	384.00
		160.00	511	515	184.00	388.00
		161.00	516	520	185.20	388.00
		162.00	521	524	186.30	389.60
		163.00	525	529	187.60	391.60
		164.00	530	534	188.60	393.60
		165.00	535	538	189.80	396.20
		166.00	539	543	190.90	397.20
		167.00	544	548	192.10	399.20
		168.00	549	551	193.20	400.40
			552	556	194.00	402.00
			559	560	195.00	403.60
			560	563	196.00	404.80
			563	568	197.00	408.40
			567	569	198.00	407.60
			570	573	199.00	409.20
			574	578	200.00	410.40
			577	580	201.00	412.00
			581	583	202.00	413.20
			584	587	203.00	414.80
			588	591	204.00	416.40
			592	594	205.00	417.60
			596	598	206.00	419.20
			599	601	207.00	420.40
			603	606	208.00	422.00

101(a)*

*Applicable with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)).

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I Primary insurance benefit under 1939 Act, as modified		II (Primary insurance amount under 1965 Act)	III (Average monthly wage)	IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (b)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—	The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—	
			\$508	\$508	\$423.20
			509	512	424.80
			513	516	426.40
			517	519	427.60
			520	523	429.20
			524	526	430.40
			527	530	432.00
			531	533	433.20
			534	537	434.60
			538	541	436.40
			542	544	437.60
			545	548	439.20
			549	551	440.40
			552	555	442.00
			555	558	443.20
			559	562	444.80
			563	565	446.00
			565	569	447.60
			570	573	449.20
			574	576	450.40
			577	580	452.00
			581	583	453.20
			584	587	454.60
			588	590	455.00
			591	594	457.60
			595	598	459.20
			599	701	460.40
			702	705	462.00
			708	709	463.60
			710	713	465.20
			714	716	466.40
			717	720	468.00
			721	724	469.60
			725	728	471.20
			729	732	472.80
			733	735	474.00
			736	739	475.60
			740	743	477.20
			744	747	478.80
			748	750	480.00
			751	754	481.60
			755	758	483.20
			759	762	484.80
			763	766	486.40
			767	769	487.60
			770	773	489.20
			774	777	490.80
			778	781	492.40
			782	785	494.00
			786	788	495.20
			789	792	496.80
			793	796	498.40
			797	800	500.00
			801	804	501.60
			805	807	502.80
			808	811	504.40
			812	815	506.00
			816	819	507.60
			820	823	509.20
			824	826	510.40
			827	830	512.00
			831	834	513.60
			835	838	515.20
			839	842	516.80
			843	846	518.00
			846	849	519.60
			850	853	521.20
			854	857	522.80
			858	861	524.40
			862	864	526.00
			866	868	527.20
			869	872	528.80
			873	876	530.40
			877	880	532.00
			881	883	533.20
			884	887	534.80
			888	891	536.40
			892	895	538.00
			898	899	539.60
			900	900	540.00

Sec 101(a)*

*Applicable with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)).

215(b)

II

Average Monthly Wage

(b) (1) For the purposes of column ~~III~~ of the table appearing in subsection (a) of this section, an individual's "average monthly wage" shall be the quotient obtained by dividing—

(A) the total of his wages paid in and self-employment income credited to his "benefit computation years" (determined under paragraph (2)), by

§ 154(b)(1)*

(B) the number of months in such years.

(2) (A) The number of an individual's "benefit computation years" shall be equal to the number of elapsed years (determined under paragraph (8) of this subsection), reduced by five; except that the number of an individual's benefit computation years shall in no case be less than two.

(B) An individual's "benefit computation years" shall be those computation base years, equal in number to the number determined under subparagraph (A), for which the total of his wages and self-employment income is the largest.

~~(C) For purposes of subparagraph (B), "computation base years" include only calendar years in the period after 1950 and prior to the earlier of the following years—~~

~~(i) the year in which occurred (whether by reason of section 202(j) (1) or otherwise) the first month for which the individual was entitled to old-age insurance benefits, or~~

§ 154(b)(2)*

~~(ii) the year succeeding the year in which he died.~~

~~Any calendar year all of which is included in a period of disability shall not be included as a computation base year.~~

(C) For the purposes of subparagraph (B), "computation base years" include calendar years in the period after 1936 and prior to the earlier of the following years—

(i) the year in which occurred (whether by reason of section 202(j) (1) or otherwise) the first month for which the individual was entitled to old-age insurance benefits, or

§ 154(b)(2)*

(ii) the year succeeding the year in which he died, except that years prior to 1951 may be included only if, pursuant to subparagraph (D), wages are deemed to have been paid in such year. Any calendar year (after 1950) all of which is included in a period of disability shall not be included as a computation base year.

* Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Act Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j)).

(D) For purposes of subparagraphs (B) and (C) —

(i) an individual whose total wages prior to 1951 do not exceed \$12,000 shall be deemed to have been paid such wages in equal parts in four calendar years;

(ii) an individual whose total wages prior to 1951 exceed \$12,000 and are less than \$42,000 shall be deemed to have been paid (I) \$3,000, in each calendar year prior to 1951, but only to the extent that the total of such calendar years is equal to the integer derived by dividing the total of such wages paid prior to 1951 by \$3,000, and (II) the excess of such total of such wages over the product of \$3,000 times such integer, in an additional calendar year;

(iii) an individual whose total wages prior to 1951 are at least \$42,000 shall be deemed to have been paid \$3,000 in each of fourteen calendar years.

(E) For purposes of subparagraph (D), "total wages" with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid to such individual under section 217, and (iii) compensation under the Railroad Retirement Act of 1937 creditable to him pursuant to this title.

* Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Act Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j)).

215(b)(Cont.)

(3) For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before—

(A) in the case of a woman, the year in which she died or, if it occurred earlier but after 1960, the year in which she attained age 62,

(B) in the case of a man who has died, the year in which he died or, if it occurred earlier but after 1960, the year in which he attained age 65, or

(C) in the case of a man who has not died, the year occurring after 1960 in which he attained (or would attain) age 65.

For purposes of the preceding sentence, any calendar year any part of which was included in a period of disability shall not be included in such number of calendar years.

~~(4) The provisions of this subsection shall be applicable only in the case of an individual—~~

~~(A) who becomes entitled, after December 1965, to benefits under section 202(a) or section 223; or~~

~~(B) who dies after December 1965 without being entitled to benefits under section 202(a) or section 223; or~~

~~(C) whose primary insurance amount is required to be recomputed under subsection (f) (2), as amended by the Social Security Amendments of 1965,~~

§ 101(c)*

except that it shall not apply to any such individual for purposes of monthly benefits for months before January 1966.

~~(5) For the purposes of column III of the table appearing in subsection (a) of this section, the provisions of this subsection, as in effect prior to the enactment of the Social Security Amendments of 1965, shall apply—~~

§ 101(c)*

~~(A) in the case of an individual to whom the provisions of this subsection are not made applicable by paragraph (4), but who, on or after the date of the enactment of the Social Security Amendments of 1965 and prior to 1966, met the requirements of this paragraph or paragraph (4), as in effect prior to such enactment, and~~

~~(B) with respect to monthly benefits for months before January 1966, in the case of an individual to whom the provisions of this subsection are made applicable by paragraph (4).~~

(4) The provisions of this subsection shall be applicable only in the case of an individual—

(A) who becomes entitled, after May 1967, to benefits under section 202 (a) or section 223; or

(B) who dies after May 1967 without being entitled to benefits under section 202 (a) or section 223;
or

§ 101(c)*

(C) whose primary insurance amount is required to be recomputed under subsection (f) (2).

* Applicable with respect to monthly benefits under title II of the Social Security Act for the months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)). 108

~~Primary Insurance Amount Under 1958 Act, as Modified~~

§ 101(d)*

~~(c)(1) For the purposes of column IX of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed as provided in, and subject to the limitations specified in, (A) this section as in effect prior to the enactment of the Social Security Amendments of 1965, and (B) the applicable provisions of the Social Security Amendments of 1960.~~

~~(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 202(a) or section 223 before the date of enactment of the Social Security Amendments of 1965 or who died before such date.~~

Primary Insurance Amount Under 1965 Act

§ 154(c)**

(c) (1) For the purposes of column II of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed on the basis of the law in effect prior to the Social Security Amendments of 1967.

§ 101(d)*

(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 202 (a) or section 223 before June 1967 or who died before such month.

* Applicable with respect to monthly benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)).

**Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j)).

Primary Insurance Benefit Under 1939 Act

~~(d)(1) For the purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as provided in this title as in effect prior to the enactment of the Social Security Act Amendments of 1950, except that—~~

~~(A) In the computation of such benefit, such individual's average monthly wage shall (in lieu of being determined under section 209(f) of this title as in effect prior to the enactment of such amendments) be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2)(C) and (3) of subsection (b), 1936 shall be used instead of 1950.~~

§ 154(d) **

~~(B) For purposes of such computation, the date he became entitled to old-age insurance benefits shall be deemed to be the date he became entitled to primary insurance benefits.~~

~~(C) The 1 per centum addition provided for in section 209(e)(2) of this Act as in effect prior to the enactment of the Social Security Act Amendments of 1950 shall be applicable only with respect to calendar years prior to 1951, except that any wages paid in any year prior to such year all of which was included in a period of disability shall not be counted.~~

§ 154(d)**

~~(D) The provisions of subsection (e) shall be applicable to such computation.~~

~~(2) The provisions of this subsection shall be applicable only in the case of an individual—~~

~~(A) with respect to whom at least one of the quarters elapsing prior to 1951 is a quarter of coverage;~~

~~(B) who meets the requirements of any of the subparagraphs of paragraph (4) of subsection (b) of this section; and~~

~~(C) who attained age 22 after 1950 and with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage, or who attained such age before 1951.~~

~~(3) The provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965 shall be applicable in the case of an individual who meets the requirements of subsection (4)(5) (as in effect after such enactment).~~

§ 101(e) *

* Applicable with respect to monthly benefits under title II of the Social Security Act for the months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 101(f)).

** Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j)).

Certain Wages and Self-Employment Income Not To Be Counted

(e) For the purposes of subsections (b) and (d)—

(1) in computing an individual's average monthly wage there shall not be counted the excess over \$3,600 in the case of any calendar year after 1950 and before 1955, the excess over \$4,200 in the case of any calendar year after 1954 and before 1959, the excess over \$4,800 in the case of any calendar year after 1958 and before 1966, ~~and the excess over \$6,600 in the case of any calendar year after 1966,~~

the

excess over \$6,600 in the case of any calendar year after 1965 and before 1968, the excess over \$7,800 in the case of any calendar year after 1967 and before 1971, the excess over \$9,000 in the case of any calendar year after 1970 and before 1974, and the excess over \$10,800 in the case of any calendar year after 1973 ,

§ 107(a)(1) *

of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 212) ; and

(2) if an individual's average monthly wage computed under subsection (b) or for the purposes of subsection (d) is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1.

Recomputation of Benefits

(f) (1) After an individual's primary insurance amount has been determined under this section, there shall be no recomputation of such individual's primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 217(b).

§ 154(e)**

~~(2) With respect to each year—~~

~~(A) which begins after December 31, 1964, and~~

~~(B) for any part of which an individual is entitled to old-age insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulations prescribe, recompute the primary insurance amount of such individual. Such recomputation shall be made—~~

§ 102(c)***

~~(C) as provided in subsection (a) (1) and (2) if such year is either the year in which he became entitled to such old-age insurance benefits or the year preceding such year, or~~

~~(D) as provided in subsection (a) (1) in any other case; and in all cases such recomputation shall be made as though the year with respect to which such recomputation is made is the last year of the period specified in paragraph (2)(C) of subsection (b). A recomputation under this paragraph with respect to any year shall be~~

(1), (3) and (5)

~~effective—~~

* Applicable only with respect to calendar years after 1967. (Sec. 107(c)).

**Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under such section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j)).

*** Applicable with respect to monthly insurance benefits under title II of the Social Security Act for months after May 1967 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. (Sec. 102(d)).

(2) With respect to each year—

(A) for any part of which an individual is entitled to old-age insurance benefits, and

(B) which begins after 1964, except that the

§ 154(e)(1)*

**

amendments made by sections 154 (a) and (b) of the Social Security Amendments of 1967^v shall not apply for this purpose unless such individual has wages or self-employment income credited for a year after 1966,

the Secretary shall, at such time or times and within such period as he may by regulations prescribe, recompute the primary insurance amount of such individual. Such recomputation shall be made, as provided in subsection (a) (1), as though the year with respect to which such recomputation is made is the last year of the period specified in subsection (b) (2) (C), and as provided in subsection (a) (4). A recomputation under this paragraph with respect to any year shall be effective—

(C)

~~(B)~~ in the case of an individual who did not die in such year, for monthly benefits beginning with benefits for January of the following year; or

§ 154(e)(2)

(D)

~~(F)~~ in the case of an individual who died in such year (including any individual whose increase in his primary insurance amount is attributable to compensation which, upon his death, is treated as remuneration for employment under section 205(o)), for monthly benefits beginning with benefits for the month in which he died.

* Applicable in the case of an individual (A) who meets any of the provisions of paragraph (4) of section 215(b) of the Social Security Act, as amended by section 101(e) of the Social Security Amendments of 1967, or (B) who died before June 1967 without being entitled to benefits under section 202(a) or section 223, and no persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202(a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j)).

(3) In the case of any individual who became entitled to ~~old-age~~ ^{retirement} insurance benefits in 1952 or in a taxable year which began in 1952 (and without the application of section 202(j)(1)), or who died in 1952 or in a taxable year which began in 1952 but did not become entitled to such benefits prior to 1952, and who had self-employment income for a taxable year which ended within or with 1952 or which began in 1952, then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961) by a person entitled to monthly benefits on the basis of such individual's wages and self-employment income, the Secretary shall recompute such individual's primary insurance amount. Such recomputation shall be made in the manner provided in the preceding subsections of this section (other than subsection (b)(4)(A)) for computation of such amount, except that (A) the self-employment income closing date shall be the day following the quarter with or within which such taxable year ended, and (B) the self-employment income for any subsequent taxable year shall not be taken into account. Such recomputation shall be effective (A) in the case of an application filed by such individual, for and after the first month in which he became entitled to ~~old-age~~ insurance benefits, ^{retirement} and (B) in the case of an application filed by any other person, for and after the month in which such person who filed such application for recomputation became entitled to such monthly benefits. No recomputation under this paragraph pursuant to an application filed after such individual's death shall affect the amount of the lump-sum death payment under subsection (i) of section 202, and no such recomputation shall render erroneous any such payment certified by the Secretary prior to the effective date of the recomputation.

(4) Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount.

Rounding of Benefits

(g) The amount of any primary insurance amount and the amount of any monthly benefit computed under section 202 or 223 which (after reduction under section 203(a) and deductions under section 203(b)) is not a multiple of \$0.10 shall be raised to the next higher multiple of \$0.10.

(h) (1) Notwithstanding the provisions of the Civil Service Retirement Act, remuneration paid for service to which the provisions of section 210(1)(1) of this Act are applicable and which is performed by an individual as a commissioned officer of the Reserve Corps of the Public Health Service prior to July 1, 1960, shall not be included in computing entitlement to or the amount of any monthly benefit under this title, on the basis of his wages and self-employment income, for any month after June 1960 and prior to the first month with respect to which the Civil Service Commission certifies to the Secretary that, by reason of a waiver filed as provided in paragraph (2), no further annuity will be paid to him, his wife, and his children, or, if he has died, to his widow and children, under the Civil Service Retirement Act on the basis of such service.

(2) In the case of a monthly benefit for a month prior to that in which the individual, on whose wages and self-employment income such benefit is based, dies, the waiver must be filed by such individual; and such waiver shall be irrevocable and shall constitute a waiver on behalf of himself, his wife, and his children. If such individual did not file such a waiver before he died, then in the case of a benefit for the month in which he died or any month thereafter, such waiver must be filed by his widow, if any, and by or on behalf of all his children, if any; and such waivers shall be irrevocable. Such a waiver by a child shall be filed by his legal guardian or guardians, or, in the absence thereof, by the person (or persons) who has the child in his care.

Other Definitions

Sec. 216. For the purposes of this title—
 [(a) Repealed.]

Wife

(b) The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than one year immediately preceding the day on which her application is filed, or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 202, (B) had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or (C) was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

Widow

(c) The term "widow" (except when used in section 202(i)) means the surviving wife of an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (4) she was married to him at the time both of them legally adopted a child under the age of eighteen, (5) she was married to him for a period of not less than one year immediately prior to the day ~~on which he died,~~

that occurs one month after the day on which he died,

#155(a)*

or (6) in the month prior to the month of her marriage to him (A) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 202, (B) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or (C) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

Divorced Wives; Divorce

(d) (1) The term "divorced wife" means a woman divorced from an individual, but only if she had been married to such individual

* Applicable with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted. (Sec.155(d)).

for a period of 20 years immediately before the date the divorce became effective.

(2) The term "surviving divorced wife" means a woman divorced from an individual who has died, but only if she had been married to the individual for a period of 20 years immediately before the date the divorce became effective.

(3) The term "surviving divorced mother" means a woman divorced from an individual who has died, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18, or (D) she was married to him at the time both of them legally adopted a child under the age of 18.

(4) The terms "divorce" and "divorced" refer to a divorce a vinculo matrimonii.

Child

(e)

§ 150(a)*

~~The term "child" means (1) the child or legally adopted child of an individual, and (2) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child's insurance benefits is filed or (if the insured individual is deceased) the day on which such individual died.~~

(1)

^

The term "child"

means—

(A) the child or legally adopted child of an individual,

§ 150(a)*

(B) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child's insurance benefits is filed or (if the insured individual is deceased) the day

§ 155(b)*

~~on which such individual died.~~

that occurs one month after the day on which such individual died

(C) in the case of a living individual, a person who was related by blood or adoption to such individual or such individual's spouse, and who was living in such individual's household and receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at, and for a continuous period of not less than 5 years immediately preceding, whichever of the following days first occurred—

* Applicable with respect to monthly benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted on the basis of an application filed in or after the month in which this Act is enacted. (Sec. 150(d)) and (Sec. 155(d)).

(i) the day on which such individual became entitled to benefits under section 202 (a) or 223, or

(ii) if such individual had a period of disability which continued until he became entitled to benefits under section 202 (a), the day on which such period of disability began,

§ 150(a)*

but only if such continuous period of not less than 5 years began before such person attained age 18 and continued, insofar as the requirement of living in such individual's household is concerned, until application for child's insurance benefits is filed, and

(D) in the case of a deceased individual, a person who was related by blood or adoption to such individual or such individual's spouse, and who was living in such individual's household and was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual on, and for a continuous period of not less than one year immediately preceding,

§ 150(a)*

(i) the day such individual died, or

(ii) if such individual had a period of disability which continued until he died, the day on which such period of disability began,

but only if such continuous period of not less than one year began before such person attained age 18 and continued, insofar as the requirement of living in such individual's household is concerned, until such individual died.

* Applicable with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted (Sec. 155(d)).

~~For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but before the end of two years after the day on which such individual died or the date of enactment of this Act.~~

(2) Except as may be provided in the succeeding sentence of this paragraph, for the purposes of paragraph (1) (A), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death and only if—

(A) proceedings for the adoption of the child had been instituted by such individual before his death, or

(B) such child was adopted by such individual's surviving spouse before the end of two years after (i) the day on which such individual died or (ii) the date of enactment of the Social Security Amendments of 1958.

* Applicable with respect to monthly benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of an application filed in or after the month in which this Act is enacted. (Sec. 151(c)).

~~except that this sentence shall not apply if at the time of such individual's death such person was receiving regular contributions toward his support from someone other than such individual or his spouse, or from any public or private welfare organization which furnishes services or assistance for children.~~

§ 150(c)*

The preceding sentence shall not apply if at the time of such individual's death such person was receiving regular contributions toward his support from—

(C) someone other than such individual or his spouse, or

(D) a public or private welfare organization which had placed such person in such individual's household under a foster-care program,

§ 150(c)*

except that the provisions of subparagraph (C) shall not apply if such individual is the mother or father of such person.

(3) For the purposes of paragraph (1) (B),

~~For purposes of clause (2),~~ a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsection (h) (1) (B), would have been a valid marriage.

§ 151(b)**

* Applicable with respect to monthly benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted on the basis of an application filed in or after the month in which this Act is enacted. (Sec. 150(d)).

** Applicable with respect to monthly benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of an application filed in or after the month in which this Act is enacted. (Sec. 151(c)).

Husband

(f) The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 202, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under

subsection (d) of such section (subject, however, to section 202(s)), or (C) he was entitled to, or upon application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

Widower

(g) The term "widower" (except when used in section 202(i)) means the surviving husband of an individual, but only if (1) he is the father of her son or daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than one year immediately prior to the day ~~on which she died~~

§ 155(c)*

that occurs one month after the day
on which she died

, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 202, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 202(s)), or (C) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 5 of the Railroad Retirement Act of 1937, as amended.

Determination of Family Status

(h)(1)(A) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this title if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless, be

* Applicable with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted (Sec. 155(d)).

deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

(B) In any case where under subparagraph (A) an applicant is not (and is not deemed to be) the wife, widow, husband, or widower of a fully or currently insured individual, or where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual, but it is established to the satisfaction of the Secretary that such applicant in good faith went through a marriage ceremony with such individual resulting in a purported marriage between them which, but for a legal impediment not known to the applicant at the time of such ceremony, would have been a valid marriage, and such applicant and the insured individual were living in the same household at the time of the death of such insured individual or (if such insured individual is living) at the time such applicant files the application, then, for purposes of subparagraph (A) and subsections (b), (c), (f), and (g), such purported marriage shall be deemed to be a valid marriage. The provisions of the preceding sentence shall not apply (i) if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 202 on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii) if the Secretary determines, on the basis of information brought to his attention, that such applicant entered into such purported marriage with such insured individual with knowledge that it would not be a valid marriage. The entitlement to a monthly benefit under subsection (b), (c), (e), (f), or (g) of section 202, based on the wages and self-employment income of such insured individual, of a person who would not be deemed to be a wife, widow, husband, or widower of such insured individual but for this subparagraph, shall end with the month before the month (i) in which the Secretary certifies, pursuant to section 205 (i), that another person is entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 202 on the basis of the wages and self-employment income of such insured individual, if such other person is (or is deemed to be) the wife, widow, husband, or widower of such insured individual under subparagraph (A), or (ii) if the applicant is entitled to a monthly benefit under subsection (b) or (c) of section 202, in which such applicant entered into a marriage, valid without regard to this subparagraph, with a person other than such insured individual. For purposes of this subparagraph, a legal impediment to the validity of a purported marriage includes only an impediment (i) resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or (ii) resulting from a defect in the procedure followed in connection with such purported marriage.

(2) (A) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this title, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any

State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

(B) If an applicant is a son or daughter of a fully or currently insured individual but is not (and is not deemed to be) the child of such insured individual under subparagraph (A), such applicant shall nevertheless be deemed to be the child of such insured individual if such insured individual and the mother or father, as the case may be, of such applicant went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of paragraph (1)(B), would have been a valid marriage.

(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2), shall nevertheless be deemed to be the child of such insured individual if:

(A) in the case of an insured individual entitled to ~~old age~~ retirement insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter,

and such acknowledgment, court decree, or court order was made not less than one year before such insured individual became entitled to ~~old age~~ retirement insurance benefits or attained age 65, whichever is earlier; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and was living with or contributing to the support of the applicant at the time such insured individual became entitled to benefits or attained age 65, whichever first occurred;

(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he was entitled to ~~old age~~ retirement insurance benefits—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his son or daughter,

(II) has been decreed by a court to be the father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his son or daughter,

and such acknowledgment, court decree, or court order was made before such insured individual's most recent period of disability began; or

(ii) such insured individual is shown by evidence satisfactory to the Secretary to be the father of the applicant and

- was living with or contributing to the support of that applicant at the time such period of disability began;
- (C) in the case of a deceased individual—
- (i) such insured individual—
 - (I) had acknowledged in writing that the applicant is his son or daughter,
 - (II) had been decreed by a court to be the father of the applicant, or
 - (III) had been ordered by a court to contribute to the support of the applicant because the applicant was his son or daughter,
 and such acknowledgment, court decree, or court order was made before the death of such insured individual, or
 - (ii) such insured individual is shown by evidence satisfactory to the Secretary to have been the father of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died.

Disability; Period of Disability

,202(e)

(i) (1) Except for purposes of sections 202(d), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 5/200 or less in the better eye with the use of a correcting lens. An eye in which the visual field is reduced to five degrees or less concentric contraction shall be considered for the purpose of this paragraph as having a central visual acuity of 5/200 or less. An individual shall not be considered to be under a disability unless he furnishes such proof of the existence thereof as may be required. Nothing in this title shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

§ 105(c)*

(2) (A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than 6 full calendar months' duration or such individual was entitled to benefits under section 223 for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of 65.

* Applicable only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted. (Sec. 105(h)). See also Sec. 105(i) of Social Security Amendments of 1967, p. 233.

(C) A period of disability shall begin—

(i) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(ii) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

(D) A period of disability shall end with the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases.

(E) No application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph) shall be accepted as an application for purposes of this paragraph.

(F) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application only if the applicant satisfies the requirements for a period of disability before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed on such first day.

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 (if a woman) or age 65 (if a man) and filed application for benefits under section 202(a) on the first day of such quarter; and

(B) (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31 and he is under a disability by reason of blindness (as defined in paragraph (1)), not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage;

except that the provisions of subparagraph (A) of this paragraph shall not apply in the case of an individual with respect to whom a period of disability would, but for such subparagraph, begin before 1951. For purposes of subparagraph (B) of this paragraph, when

the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage.

Periods of Limitation Ending on Nonwork Days

(j) Where this title, any provision of another law of the United States (other than the Internal Revenue Code of 1954) relating to or changing the effect of this title, or any regulation issued by the Secretary pursuant thereto provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this title or is necessary to establish or protect any rights under this title, and such period ends on a Saturday, Sunday, or legal holiday, or on any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order. For purposes of this subsection, the day on which a period ends shall include the day on which an extension of such period, as authorized by law or by the Secretary pursuant to law, ends. The provisions of this subsection shall not extend the period during which benefits under this title may (pursuant to section 202(j)(1) or 223(b)) be paid for months prior to the day application for such benefits is filed, or during which an application for benefits under this title may (pursuant to section 202(j)(2) or 223(b)) be accepted as such.

Benefits in Case of Veterans

Sec. 217. (a)(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after August 1950, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this title on the basis of the wages and self-employment income of any World War II veteran, and for purposes of section 216(i)(3), such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States during World War II. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran during World War II is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be

payable by it under any other law of the United States or under a system established by such agency or instrumentality. The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this title if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 215 prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 216(i) (3).

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran during World War II, a benefit described in clause (B) of paragraph (1) has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service during World War II shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(b) (1) Any World War II veteran who died during the period of three years immediately following his separation from the active military or naval service of the United States shall be deemed to have died a fully insured individual whose primary insurance amount is the amount determined under section 215(c). Notwithstanding section 215(d), the primary insurance benefit (for purposes of section 215(c)) of such veteran shall be determined as provided in this title as in effect prior to the enactment of this section, except that the 1 per centum addition provided for in section 209(e)(2) of this Act as in effect prior to the enactment of this section shall be applicable only with respect to calendar years prior to 1951.²⁷⁹ This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application;

(B) any pension or compensation is determined by the Veterans' Administration to be payable by it on the basis of the death of such veteran;

(C) the death of the veteran occurred while he was in the active military or naval service of the United States; or

(D) such veteran has been discharged or released from the active military or naval service of the United States subsequent to July 26, 1951.

(2) Upon an application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to paragraph (1) (B) of this subsection unless he has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such veteran. The Secretary of Health, Education, and Welfare shall thereupon report such decision to the Veterans' Administration. If the Veterans' Administration in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, it shall notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payment theretofore certified by the Secretary of Health, Education, and Welfare on the basis of paragraph (1) of this subsection to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of section 3101 of title 38, United States Code) be deemed to have been paid to him by such Administration on account of such accrued pension or compensation. No such payment certified by the Secretary of Health, Education, and Welfare, and no payment certified by him for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration shall be deemed by reason of this subsection to have been an erroneous payment.

(c) In the case of any World War II veteran to whom subsection (a) is applicable, proof of support required under section 202(h) may be filed by a parent at any time prior to July 1951 or prior to the expiration of two years after the date of the death of such veteran, whichever is the later.

(d) For the purposes of this section—

(1) The term "World War II" means the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

(2) The term "World War II veteran" means any individual who served in the active military or naval service of the United States at any time during World War II and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(e)(1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this title on the basis of the wages and self-employment income of any veteran (as defined in paragraph (4)), and for purposes of section 216(i)(3), such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to January 1, 1957. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this title if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 215 prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 216(i)(3). In the case of monthly benefits under this title for months after December 1956 (and any lump-sum death payment under this title with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service (as a member of a uniformed service) to which the provisions of section 210(1)(1) are applicable, wages which would, but for the provisions of clause (B), be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey or Public Health Service.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, a benefit described in clause (B) of paragraph (1) has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned

instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to January 1, 1957, shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to January 1, 1957, and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(f) (1) In any case where a World War II veteran (as defined in subsection (d) (2)) or a veteran (as defined in subsection (e) (4)) has died or shall hereafter die, and his widow or child is entitled under the Civil Service Retirement Act of May 29, 1930, as amended, to an annuity in the computation of which his active military or naval service was included, clause (B) of subsection (a) (1) or clause (B) of subsection (e) (1) shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 202 which is based on his wages and self-employment income; except that no such widow or child shall be entitled under section 202 to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such widow or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such widow or child under such Act of May 29, 1930, as amended, on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a widow waives her right to receive such annuity such waiver shall constitute a waiver on her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the widow and all children, or,

if there is no widow, all the children, waive their rights to receive annuities under the Civil Service Retirement Act of May 29, 1930, as amended, based on such veteran's military or civilian service.

(g) (1) In September 1965, and in every fifth September thereafter up to and including September 2010, the Secretary shall determine the amount which, if paid in equal installments at the beginning of each fiscal year in the period beginning—

(A) with July 1, 1965, in the case of the first such determination, and

(B) with the July 1 following the determination in the case of all other such determinations, and ending with the close of June 30, 2015, would accumulate, with interest compounded annually, to an amount equal to the amount needed to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of June 30, 2015, as he estimates they would otherwise be in at the close of that date if section 210 of this Act as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted. The rate of interest to be used in determining such amount shall be the rate determined under section 201(d) for public-debt obligations which were or could have been issued for purchase by the Trust Funds in the June preceding the September in which such determination is made.

(2) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund—

(A) for the fiscal year ending June 30, 1966, an amount equal to the amount determined under paragraph (1) in September 1965, and

(B) for each fiscal year in the period beginning with July 1, 1966, and ending with the close of June 30, 2015, an amount equal to the annual installment for such fiscal year under the most recent determination under paragraph (1) which precedes such fiscal year.

(3) For the fiscal year ending June 30, 2016, there is authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund such sums as the Secretary determines would place the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position in which they would have been at the close of June 30, 2015, if section 210 of this Act as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted.

(4) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund annually, as benefits under this title and part A of title XVIII are paid after June 30, 2015, such sums as the Secretary determines to be necessary to meet the additional costs, resulting from subsections (a), (b), and (e), of such benefits (including lump-sum death payments).

Gratuitous Wage Credits for American Citizens Who Served in the Armed Forces of Allied Countries

(h) (1) For the purposes of this section, any individual who the Secretary finds—

(A) served during World War II (as defined in subsection (d)(1)) in the active military or naval service of a country which was on September 16, 1940, at war with a country with which the United States was at war during World War II;

(B) entered into such active service on or before December 8, 1941;

(C) was a citizen of the United States throughout such period of service or lost his United States citizenship solely because of his entrance into such service;

(D) had resided in the United States for a period or periods aggregating four years during the five-year period ending on the day of, and was domiciled in the United States on the day of, such entrance into such active service; and

(E)(i) was discharged or released from such service under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty, or

(ii) died while in such service,

shall be considered a World War II veteran (as defined in subsection (d)(2)) and such service shall be considered to have been performed in the active military or naval service of the United States.

(2) In the case of any individual to whom paragraph (1) applies, proof of support required under section 202 (f) or (h) may be filed at any time prior to the expiration of two years after the date of such individual's death or the date of the enactment of this subsection, whichever is the later.

Voluntary Agreements for Coverage of State and Local Employees

Purpose of Agreement

Sec. 218. (a) (1) The Secretary of Health, Education, and Welfare shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 210(a), for the purposes of this title the term "employment" includes any service included under an agreement entered into under this section.

Definitions

(b) For the purposes of this section—

(1) The term "State" does not include the District of Columbia, Guam or American Samoa.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Civilian employees of National Guard units of a State who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., sec. 42), and paid from funds allotted to such units by the Department of Defense, shall for purposes of this section be deemed to be employees of the State and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 205 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1624) or section 14 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499n), between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

Services Covered

(c)(1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraph (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) Any service of an emergency nature;

(B) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(C) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d) (3).

(4) The Secretary of Health, Education, and Welfare shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3)(C) is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to such individuals is pursuant to subsection (d) (3).

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 210(a) other than paragraph (7) of such section and service the remuneration for which is excluded from wages by paragraph (2) of section 209(h).

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment,

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 210(k)), and

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of section 210(a) other than paragraph (7) of such section.

(7) No agreement may be made applicable (either in the original agreement or by any modification thereof) to service performed by any individual to whom paragraph (3)(C) is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d) (3)), whichever may be desired by the State.

Positions Covered by Retirement Systems

(d)(1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on the date of enactment of the succeeding paragraph of this subsection (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of enactment of such succeeding paragraph, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5)(A)). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5)(A)) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is hereby declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1), an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time

such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this title to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this title has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c)(3)(C)).

(5)(A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this title to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c), and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3)

(C) of such subsection, such exclusion may not include any services to which such paragraph (3)(C) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6)(A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retire-

ment system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. Where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of a State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems pursuant to the preceding sentence or pursuant to subparagraph (C), then the State may, for purposes of subsection (f) only, deem the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned.

(B) If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this subparagraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. If a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Massachusetts, Minnesota, Nevada, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after the date of enactment of this subparagraph, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate re-

tirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the positions in the separate retirement system of which such individuals so become members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under this paragraph.

(D) The position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title.

(E) An individual who is in a position covered by a retirement system to which subparagraph (C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8)), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subparagraph shall apply only if the State so requests and any such individual referred to in such preceding provisions shall, if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1967 or, if later, the expiration of two years after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer. Notwithstanding subsection (f) (1), any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or Hawaii which covers positions of employees of such State who are compensated in whole or in part

from grants made to such State under title III, there shall be deemed to be, if such State so desires, a separate retirement system with respect to any of the following:

- (i) the positions of such employees;
- (ii) the positions of all employees of such State covered by such retirement system who are employed in the department of such State in which the employees referred to in clause (i) are employed; or
- (iii) employees of such State covered by such retirement system who are employed in such department of such State in positions other than those referred to in clause (i).

(7) The certification by the governor (or an official of the State designated by him for the purpose) required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) or the corresponding provision of prior law) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor (or the official so designated) certifies to the Secretary of Health, Education, and Welfare that—

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) or the corresponding provision of prior law.

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system.

(8)(A) Notwithstanding paragraph (1), if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of such system if the agreement is modified to so provide.

(D) Except in the case of agreements with the States named in subsection (p) and agreements with interstate instrumentalities, nothing in this paragraph shall authorize the application of an agreement to service in any policeman's or fireman's position.

Payments and Reports by States

(e) (1) Each agreement under this section shall provide—

(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services of employees covered by the agreement constituted employment as defined in section 3121 of such code; and

(B) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education, and Welfare may prescribe to carry out the purposes of this section.

(2) Where—

(A) an individual in any calendar year performs services to which an agreement under this section is applicable (i) as the employee of two or more political subdivisions of a State or (ii) as the employee of a State and one or more political subdivisions of such State; and

(B) such State provides all of the funds for the payment of those amounts referred to in paragraph (1) (A) which are equivalent to the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to wages paid to such individual for such services; and

(C) the political subdivision or subdivisions involved do not reimburse such State for the payment of such amounts or, in the case of services described in subparagraph (A) (ii), for the payment of so much of such amounts as is attributable to employment by such subdivision or subdivisions;

then, notwithstanding paragraph (1), the agreement under this section with such State may provide (either in the original agreement or by a modification thereof) that the amounts referred to in paragraph (1) (A) may be computed as though the wages paid to such individual for the services referred to in clause (A) of this paragraph were paid by one political subdivision for services performed in its employ; but the provisions of this paragraph shall be applicable only where such State complies with such regulations as the Secretary may prescribe to carry out the purposes of this paragraph. The preceding sentence shall be applicable with respect to wages paid after an effective date specified in such agreement or modification, but in no event with respect to wages paid before (i) January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or (ii) the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary, in the case of an agreement or modification which is so mailed or delivered on or after January 1, 1962.

Effective Date of Agreement

(f) (1) Except as provided in subsection (e) (2), any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in

such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary and the State.

(2) In the case of service performed by members of any coverage group—

(A) to which an agreement under this section is made applicable, and

(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Secretary.

Termination of Agreement

(g) (1) Upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at the end of a calendar quarter specified in the notice, its agreement with the Secretary either—

(A) in its entirety, but only if the agreement has been in effect from its effective date for not less than five years prior to the receipt of such notice; or

(B) with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such coverage group for not less than five years prior to the receipt of such notice.

(2) If the Secretary, after reasonable notice and opportunity for hearing to a State with whom he has entered into an agreement pursuant to this section, finds that the State has failed or is no longer legally able to comply substantially with any provision of such agreement or of this section, he shall notify such State that the agreement will be terminated in its entirety, or with respect to any one or more coverage groups designated by him, at such time, not later than two years from the date of such notice, as he deems appropriate, unless prior to such time he finds that there no longer is any such failure or that the cause for such legal inability has been removed.

(3) If any agreement entered into under this section is terminated in its entirety, the Secretary and the State may not again enter into an agreement pursuant to this section. If any such agreement is terminated with respect to any coverage group, the Secretary and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such coverage group.

Deposits in Trust Fund; Adjustments

(h) (1) All amounts received by the Secretary of the Treasury under an agreement made pursuant to this section shall be deposited

in the Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to subsection (a) (3) of section 201, subsection (b) (1) of such section, and subsection (a) (1) of section 1817, respectively.

(2) If more or less than the correct amount due under an agreement made pursuant to this section is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be prescribed by regulations of the Secretary of Health, Education, and Welfare.

(3) If an overpayment cannot be adjusted under paragraph (2), the amount thereof and the time or times it is to be paid shall be certified by the Secretary of Health, Education, and Welfare to the Managing Trustee, and the Managing Trustee, through the Fiscal Service of the Treasury Department and prior to any action thereon by the General Accounting Office, shall make payment in accordance with such certification. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary of Health, Education, and Welfare.

Regulations

(i) Regulations of the Secretary of Health, Education, and Welfare to carry out the purposes of this section shall be designed to make the requirements imposed on States pursuant to this section the same, so far as practicable, as those imposed on employers pursuant to this title and chapter 21 and subtitle F of the Internal Revenue Code of 1954.

Failure To Make Payments

(j) In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this Act. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this Act. Amounts equal to the amounts deducted under this subsection are hereby appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h) (1).

Instrumentalities of Two or More States

(k) (1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended, then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d)(6)(C) apply. The position of any employee of any such instrumentality which is covered by any retirement system to which the first sentence of this paragraph is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d)(6) or the corresponding provision of prior law (and consisting of the positions of members who desire coverage under such agreement).

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this Act may, notwithstanding the provisions of subsection (d)(5)(A) and the references thereto in subsections (d)(1) and (d)(3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d)(3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

Delegation of Functions

(1) The Secretary of Health, Education, and Welfare is authorized, pursuant to agreement with the head of any Federal agency, to delegate any of his functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

Wisconsin Retirement Fund

(m)(1) Notwithstanding paragraph (1) of subsection (d), the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund.

(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1951, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen's positions, all service performed in firemen's positions, or both.

Certain Positions No Longer Covered by Retirement Systems

(n) Notwithstanding subsection (d), an agreement with any State entered into under this section prior to the date of the enactment of this subsection may, prior to January 1, 1958, be modified pursuant to subsection (c) (4) so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on such date of enactment), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of the enactment of this subsection, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

Certain Employees of the State of Utah

(o) Notwithstanding the provisions of subsection (d), the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c) (4) so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College,

Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December 31, 1950.

Policemen and Firemen in Certain States

(p) Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Kansas, Maine, Maryland, New York, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to the date of enactment of this subsection may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), be modified pursuant to subsection (c) (4) to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after the date of the enactment of this subsection, but only upon compliance with the requirements of subsection (d) (3). For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

[NOTE.—For provisions relating to certain Maine Teachers, see sec. 316 of P.L. 85-840, p. 441.

For provisions relating to validation of coverage for certain Mississippi Teachers, see sec. 102(h) of P.L. 86-778, p. 443.

For provisions relating to possible exclusion from coverage of Justices of the Peace and Constables in Nebraska, see sec. 102(i) of P.L. 86-778, p. 443.

For provision validating coverage of certain State and local employees in Arkansas, see sec. 1 of P.L. 87-878, p. 452.

For provisions relating to district engineering aides in Oklahoma, see sec. 3 of P.L. 88-650, p. 454.]

Time Limitation on Assessments

(q) (1) Where a State is liable for an amount due under an agreement pursuant to this section, such State shall remain so liable until the Secretary is satisfied that the amount due has been paid to the Secretary of the Treasury.

(2) Notwithstanding paragraph (1), a State shall not be liable for an amount due under an agreement pursuant to this section, with respect to the wages paid to individuals, after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which such wages were paid, or

(B) three years after the date on which such amount became due, or

(C) three years, three months, and fifteen days after the year following the year in which this subsection is enacted,

unless prior to the expiration of such period the Secretary makes an assessment of the amount due.

(3) For purposes of this subsection and section 205(c), an assessment of an amount due is made when the Secretary mails or otherwise delivers to the State a notice stating the amount he has determined to be due under an agreement pursuant to this section and the basis for such determination.

(4) An assessment of an amount due made by the Secretary after the expiration of the period specified in paragraph (2) shall nevertheless be deemed to have been made within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this paragraph, of such period as so extended), the State and the Secretary agree in writing to an extension of such period (or extended period) and, subject to such conditions as may be agreed upon, the Secretary makes the assessment prior to the expiration of such extension; or

(B) within the 365 days immediately preceding the expiration of such period (or extended period) the State pays to the Secretary of the Treasury less than the correct amount due under an agreement pursuant to this section with respect to wages paid to individuals in any calendar quarters as members of a coverage group, and the Secretary of Health, Education, and Welfare makes the assessment, adjusted to take into account the amount paid by the State, no later than the 365th day after the day the State made payment to the Secretary of the Treasury; but the Secretary of Health, Education, and Welfare, shall make such assessment only with respect to the wages paid to such individuals in such calendar quarters as members of such coverage group; or

(C) pursuant to subparagraph (A) or (B) of section 205(c) (5) he includes in his records an entry with respect to wages for an individual, but only if such assessment is limited to the amount due with respect to such wages and is made within the period such entry could be made in such records under such subparagraph.

(5) If the Secretary allows a claim for a credit or refund of an overpayment by a State under an agreement pursuant to this section, with respect to wages paid or alleged to have been paid to an individual in a calendar year for services as a member of a coverage group, and if as a result of the facts on which such allowance is based there is an amount due from the State, with respect to wages paid to such individual in such calendar year for services performed as a member of a coverage group, for which amount the State is not liable by reason of paragraph (2) then notwithstanding paragraph (2) the State shall be liable for such amount due if the Secretary makes an assessment of such amount due at the time of or prior to notification to the State of the allowance of such claim. For purposes of this paragraph and paragraph (6), interest as provided for in subsection (j) shall not be included in determining the amount due.

(6) The Secretary shall accept wage reports filed by a State under an agreement pursuant to this section or regulations of the Secretary thereunder, after the expiration of the period specified in paragraph

(2) or such period as extended pursuant to paragraph (4), with respect to wages which are paid to individuals performing services as employees in a coverage group included in the agreement and for payment in connection with which the State is not liable by reasons of paragraph (2), only if the State—

(A) pays to the Secretary of the Treasury the amount due under such agreement with respect to such wages, and

(B) agrees in writing with the Secretary of Health, Education, and Welfare to an extension of the period specified in paragraph (2) with respect to wages paid to all individuals performing services as employees in such coverage group in the calendar quarters designated by the State in such wage reports as the periods in which such wages were paid. If the State so agrees, the period specified in paragraph (2), or such period as extended pursuant to paragraph (4), shall be extended until such time as the Secretary notifies the State that such wage reports have been accepted.

(7) Notwithstanding the preceding provisions of this subsection, where there is an amount due by a State under an agreement pursuant to this section and there has been a fraudulent attempt on the part of an officer or employee of the State or any political subdivision thereof to defeat or evade payment of such amount due, the State shall be liable for such amount due without regard to the provisions of paragraph (2), and the Secretary may make an assessment of such amount due at any time.

Time Limitation on Credits and Refunds

(r)(1) No credit or refund of an overpayment by a State under an agreement pursuant to this section with respect to wages paid or alleged to have been paid to an individual as a member of a coverage group in a calendar quarter shall be allowed after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which occurred the calendar quarter in which such wages were paid or alleged to have been paid, or

(B) three years after the date the payment which included such overpayment became due under such agreement with respect to the wages paid or alleged to have been paid to such individual as a member of such coverage group in such calendar quarter, or

(C) two years after such overpayment was made to the Secretary of the Treasury, or

(D) three years, three months, and fifteen days after the year following the year in which this subsection is enacted, unless prior to the expiration of such period a claim for such credit or refund is filed with the Secretary of Health, Education, and Welfare by the State.

(2) A claim for a credit or refund filed by a State after the expiration of the period specified by paragraph (1) shall nevertheless be deemed to have been filed within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this subparagraph, of such period as

so extended) the State and the Secretary agreed in writing to an extension of such period (or extended period) and the claim is filed with the Secretary by the State prior to the expiration of such extension; but any claim for a credit or refund valid because of this subparagraph shall be allowed only to the extent authorized by the conditions provided for in the agreement for such extension, or

(B) the Secretary deletes from his records an entry with respect to wages of an individual pursuant to the provisions of subparagraph (A), (B), or (E) of section 205(c)(5), but only with respect to the entry so deleted.

Review by Secretary

(s) Where the Secretary has made an assessment of an amount due by a State under an agreement pursuant to this section, disallowed a State's claim for a credit or refund of an overpayment under such agreement, or allowed a State a credit or refund of an overpayment under such agreement, he shall review such assessment, disallowance, or allowance if a written request for such review is filed with him by the State within 90 days (or within such further time as he may allow) after notification to the State of such assessment, disallowance, or allowance. On the basis of the evidence obtained by or submitted to the Secretary, he shall render a decision affirming, modifying, or reversing such assessment, disallowance, or allowance. In notifying the State of his decision, the Secretary shall state the basis therefor.

Review by Court

(t) (1) Notwithstanding any other provision of this title any State, irrespective of the amount in controversy, may file, within two years after the mailing to such State of the notice of any decision by the Secretary pursuant to subsection (s) affecting such State, or within such further time as the Secretary may allow, a civil action for a redetermination of the correctness of the assessment of the amount due, the disallowance of the claim for a refund or credit, or the allowance of the refund or credit, as the case may be, with respect to which the Secretary has rendered such decision. Such action shall be brought in the district court of the United States for the judicial district in which is located the capital of such State, or, if such action is brought by an instrumentality of two or more States, the principal office of such instrumentality. The judgment of the court shall be final, except that it shall be subject to review in the same manner as judgments of such court in other civil actions. Any action filed under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(2) Notwithstanding the provisions of section 2411 of title 28, United States Code, no interest shall accrue to a State after final judgment with respect to a credit or refund of an overpayment made under an agreement pursuant to this section.

(3) The first sentence of section 2414 of title 28, United States Code, shall not apply to final judgments rendered by district courts of

the United States in civil actions filed under this subsection. In such cases, the payment of amounts due to States pursuant to such final judgments shall be adjusted in accordance with the provisions of this section and with regulations promulgated by the Secretary.

Sec. 219. [Repealed.]

Disability Provisions Inapplicable if Benefit Rights Impaired

Sec. 220. None of the provisions of this title relating to periods of disability shall apply in any case in which their application would result in the denial of monthly benefits or a lump-sum death payment which would otherwise be payable under this title; nor shall they apply in the case of any monthly benefit or lump-sum death payment under this title if such benefit or payment would be greater without their application.

Disability Determinations

Sec. 221. (a) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(c)) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g), be made by a State agency pursuant to an agreement entered into under subsection (b). Except as provided in subsections (c) and (d), any such determinations shall be the determination of the Secretary for purposes of this title.

(b) The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determinations referred to in subsection (a) with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.

(c) The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 216(i) or 223(c)) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.

(d) Any individual dissatisfied with any determination under subsection (a), (c), or (g) shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(e) Each State which has an agreement with the Secretary under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, as may be mutually agreed upon, the cost to the State of carrying out the agreement under this section.

The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with such certification. Appropriate adjustments between the Federal ~~Old-Age and Survivors Insurance Trust Fund~~ and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 201 (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are attributable to the administration of section 223 and the Federal ~~Old-Age and Survivors Insurance Trust Fund~~ is charged with all other expenses.

Retirement

Retirement

(f) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.

(g) In the case of individuals in a State which has no agreement under subsection (b), in the case of individuals outside the United States, and in the case of any class or classes of individuals not included in an agreement under subsection (b), the determinations referred to in subsection (a) shall be made by the Secretary in accordance with regulations prescribed by him.

Rehabilitation Services

Referral for Rehabilitation Services

Sec. 222. (a) It is hereby declared to be the policy of the Congress that disabled individuals applying for a determination of disability,

§ 105(d)(1)*

disabled individuals under age 62 who are entitled to widow's insurance benefits

and disabled individuals who are entitled to child's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

Deduction on Account of Refusal To Accept Rehabilitation Services

(b) (1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 202 and 223 for any month in which such individual, if a child who has attained the age of eighteen and is entitled to ~~child's insurance benefits or if~~

§ 105(d)(2)*

child's insurance benefits, a widow or surviving

divorced wife who has not attained age 62 and is entitled to

widow's insurance benefits on the basis of being under a

disability, or

an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its member or adherents to rely

solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

* Applicable only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted. (Sec. 105(h)). See also Sec. 105(i) of Social Security Amendments of 1967, p. 233.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1). If both this paragraph and paragraph (3) are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, divorced wife, husband, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1).

(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d)).

Period of Trial Work

, 202(d), or
202(e)

(c)(1) The term "period of trial work", with respect to an individual entitled to benefits under section 223 ~~or 202(d)~~, means a period of months beginning and ending as provided in paragraphs (3) and (4).

§105(e)(1)

*

(2) For purposes of sections 216(i) and 223, any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. For purposes of this subsection the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

~~(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 202(d) who has attained the age of eighteen, with the month in which he be-~~

§105(e)(2)

*

~~comes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later.~~

* Applicable only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted. (Sec. 105(h)). See also Sec. 105(i) of Social Security Amendments of 1967, p. 233.

A period of trial work

§ 105(e)(2)*

for any individual shall begin (i) in the case of an individual entitled to disability insurance benefits, with the month in which he becomes entitled to such benefits, (ii) in the case of a widow or surviving divorced wife who has not attained age 62 and who is entitled to widow's insurance benefits on the basis of being under a disability, with the month in which she becomes entitled to such benefits, or (iii) in the case of an individual who has attained age 18 and is entitled to benefits under section 202 (d) (and is under a disability), with the month in which he becomes entitled to such benefits, or the month in which he attains age 18, whichever is later.

Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following the month in which this paragraph is enacted; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

(4) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(A) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(B) the month in which his disability (as defined in section 223 (c) (2)) ceases (as determined after application of paragraph (2) of this subsection).

(5) In the case of an individual who becomes entitled to benefits under section 223 for any month as provided in clause (ii) of subsection (a) (1) of such section, the preceding provisions of this subsection shall not apply with respect to services in any month beginning with the first month for which he is so entitled and ending with the first month thereafter for which he is not entitled to benefits under section 223.

Costs of Rehabilitation Services From Trust Funds

(d) (1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

(A) entitled to disability insurance benefits under section 223,

or

(B) entitled to child's insurance benefits under section 202 (d) after having attained age 18 (and are under a disability), or

(C) entitled to widow's insurance benefits under

§ 105(f)(1)*

section 202 (e) before having attained age 62 (and are under a disability),

* Applicable only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted. (Sec. 105(h)). See also Sec. 105(i) of Social Security Amendments of 1967, p. 233.

222(d)(Cont.)

to the end that savings will result to the Trust Funds as a result of rehabilitating the maximum number of such individuals into productive activity, there are authorized to be transferred from the Trust Funds such sums as may be necessary to enable the Secretary to pay the costs of vocational rehabilitation services for such individuals (including (i) services during their waiting periods, and (ii) so much of the expenditures for the administration of any State plan as is attributable to carrying out this subsection); except that the total amount so made available pursuant to this subsection in any fiscal year may not exceed 1 percent of the total of the benefits under section 202(d) for children ~~who have attained age 18 and are under a disability~~

who have attained age 18 and are under a disability, the benefits under section 202(e) for widows and surviving divorced wives who have not attained age 62 and are under a disability,

§ 105(i)(2)*

and the benefits under section 223, which were certified for payment in the preceding year. The selection of individuals (including the order in which they shall be selected) to receive such services shall be made in accordance with criteria formulated by the Secretary which are based upon the effect the provision of such services would have upon the Trust Funds.

(2) In the case of each State which is willing to do so, such vocational rehabilitation services shall be furnished under a State plan for vocational rehabilitation services which—

(A) has been approved under section 5 of the Vocational Rehabilitation Act,

(B) provides that, to the extent funds provided under this subsection are adequate for the purpose, such services will be furnished, to any individual in the State who meets the criteria prescribed by the Secretary pursuant to paragraph (1), with reasonable promptness and in accordance with the order of selection determined under such criteria, and

(C) provides that such services will be furnished to any individual without regard to (i) his citizenship or place of residence, (ii) his need for financial assistance except as provided in regulations of the Secretary in the case of maintenance during rehabilitation, or (iii) any order of selection which would otherwise be followed under the State plan pursuant to section 5(a)(4) of the Vocational Rehabilitation Act.

(3) In the case of any State which does not have a plan which meets the requirements of paragraph (2), the Secretary may provide such services by agreement or contract with other public or private agencies, organizations, institutions, or individuals.

(4) Payments under this subsection may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

* Applicable only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted. (Sec. 105(h)). See also Sec. 105(i) of the Social Security Amendments of 1967, p. 233.

(5) Money paid from the Trust Funds under this subsection to pay the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid out from the Trust Funds under this subsection shall be charged to the Federal Old Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

Petirement

(A) the total cost of the services provided under this subsection, and

(B) subject to the provisions of the preceding sentence, the amount of such cost which should be charged to each of such Trust Funds.

(6) For the purposes of this subsection the term "vocational rehabilitation services" shall have the meaning assigned to it in the Vocational Rehabilitation Act, except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purposes of this subsection.

Disability Insurance Benefit Payments

Disability Insurance Benefits

Sec. 223. (a) (1) Every individual who—

- (A) is insured for disability insurance benefits (as determined under subsection (c) (1)),
 - (B) has not attained the age of sixty-five,
 - (C) has filed application for disability insurance benefits, and
 - (D) is under a disability (as defined in subsection (c) (2)),
- shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined

in subsection (c) (3)) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability (as defined in section 216(i)) which ceased, within the sixty-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, or the third month following the month in which his disability ceases. No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (c) (2) except for subparagraph (B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 202 to any person on the basis of the wages and self-employment income of such individual.

(2) Except as provided in section 202(q), such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 as though he had attained age 62 (if a woman) or age 65 (if a man) in—

(A) the first month of his waiting period, or

(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits,

retirement

and as though he had become entitled to old-age insurance benefits in the month in which he filed his application for disability insurance benefits and was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b)) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of a woman who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 215(b) (3) shall not include the year in which she attained age 62, or any year thereafter.

Filing of Application

(b) An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a) (1), shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If, upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month. An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefor before the end of such month shall be entitled to such benefit for such month if he files such application before the end of the 12th month immediately succeeding such month.

Definitions

(c) For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 (if a woman) or age 65 (if a man) and filed application for benefits under section 202(a) on the first day of such month, and

(B) (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such month occurred, or

(ii) if such month ends before he attains (or would attain) age 31 and he is under a disability by reason of blindness (as defined in section 216(i) (1), not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage.

For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage.

(2) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

An individual shall not be considered to be under a disability unless he furnishes such proof of the existence thereof as may be required.

(3) The term "waiting period" means, in the case of any application for disability insurance benefits, the earliest period of six consecutive calendar months—

(A) throughout which the individual who files such application has been under a disability, and

(B) (i) which begins not earlier than with the first day of the eighteenth month before the month in which such application is filed if such individual is insured for disability insurance benefits in such eighteenth month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such eighteenth month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957.

Reduction of Benefits Based on Disability on Account of Receipt of Workmen's Compensation

Sec. 224. (a) If for any month prior to the month in which an individual attains the age of 62—

(1) such individual is entitled to benefits under section 223, and

(2) such individual is entitled for such month, under a workmen's compensation law or plan of the United States or a State, to periodic benefits for a total or partial disability (whether or not permanent), and the Secretary has, in a prior month, received notice of such entitlement for such month,

the total of his benefits under section 223 for such month and of any benefits under section 202 for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

- (3) such total of benefits under sections 223 and 202 for such month, and
 - (4) such periodic benefits payable (and actually paid) for such month to such individual under the workmen's compensation law or plan,
- exceeds the higher of—

- (5) 80 per centum of his "average current earnings", or
- (6) the total of such individual's disability insurance benefits under section 223 for such month and of any monthly insurance benefits under section 202 for such month based on his wages and self-employment income, prior to reduction under this section.

In no case shall the reduction in the total of such benefits under sections 223 and 202 for a month (in a continuous period of months) reduce such total below the sum of—

- (7) the total of the benefits under sections 223 and 202, after reduction under this section, with respect to all persons entitled to benefits on the basis of such individual's wages and self-employment income for such month which were determined for such individual and such persons for the first month for which reduction under this section was made (or which would have been so determined if all of them had been so entitled in such first month), and

- (8) any increase in such benefits with respect to such individual and such persons, before reduction under this section, which is made effective for months after the first month for which reduction under this section is made.

For purposes of clause (5), an individual's average current earnings means the larger of (A) the average monthly wage used for purposes of computing his benefits under section 223, or (B) one-sixtieth of the total of his wages and self-employment income for the five consecutive calendar years after 1950 for which such wages and self-employment income were highest.

(b) If any periodic benefit under a workmen's compensation law or plan is payable on other than a monthly basis (excluding a benefit payable as a lump sum except to the extent that it is a commutation of, or a substitute for, periodic payments), the reduction under this section shall be made at such time or times and in such amounts as the Secretary finds will approximate as nearly as practicable the reduction prescribed by subsection (a).

(c) Reduction of benefits under this section shall be made after any reduction under subsection (a) of section 203, but before deductions under such section and under section 222(b).

(d) The reduction of benefits required by this section shall not be made if the workmen's compensation law or plan under which a periodic benefit is payable provides for the reduction thereof when anyone is entitled to benefits under this title on the basis of the wages and self-employment income of an individual entitled to benefits under section 223.

(e) If it appears to the Secretary that an individual may be eligible for periodic benefits under a workmen's compensation law or plan which would give rise to reduction under this section, he may require, as a condition of certification for payment of any benefits under section 223 to any individual for any month and of any benefits under section 202 for such month based on such individual's wages and self-employment income, that such individual certify (i) whether he has filed or intends to file any claim for such periodic benefits, and (ii) if he has so filed, whether there has been a decision on such claim. The Secretary may, in the absence of evidence to the contrary, rely upon such a certification by such individual that he has not filed and does not intend to file such a claim, or that he has so filed and no final decision thereon has been made, in certifying benefits for payment pursuant to section 205(i).

(f) (1) In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 223 and any benefits under section 202 based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Secretary shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this title on the basis of such individual's wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

(2) In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a)) shall be deemed to be the product of his average current earnings as initially determined under subsection (a) and the ratio of (i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year in which such redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding sentence which is not a multiple of \$1 shall be reduced to the next lower multiple of \$1.

(g) Whenever a reduction in the total of benefits for any month based on an individual's wages and self-employment income is made under this section, each benefit, except the disability insurance benefit, shall first be proportionately decreased, and any excess of such reduction over the sum of all such benefits other than the disability insurance benefit shall then be applied to such disability insurance benefit.

Suspension of Benefits Based on Disability

Sec. 225. If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits

under section 223, or that a child who has attained the age of eighteen and is entitled to benefits under section 202(d)

§105(g)(1)*

or that a widow or surviving divorced wife

who has not attained age 62 and is entitled to benefits

under section 202(e) on the basis of being under a dis-

ability

202(d), 202(e), or 223

, may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section ~~223 or 202(d)~~ until it is determined (as provided in section 221) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 221 (b), the Secretary shall promptly notify the appropriate State of his action under this section and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this section, the term "disability" has the meaning assigned to such term in section 223(c)(2). Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 202, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this section shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d)).

§105(g)(2)
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* Applicable only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted. (Sec. 105(h)). See also Sec. 105(i) of the Social Security Amendments of 1967, p. ²³³ --

Entitlement to Hospital Insurance Benefits

Sec. 226. (a) Every individual who— (1)
 (A)

Sec. 125(a)(1) ~~(1)~~ has attained the age of 65, and
~~(2)~~ is entitled to monthly insurance benefits under section 202 or is (B)
 a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of title XVIII
 for each month for which he meets the condition specified in paragraph
(2), beginning with the first month after June 1966 for which he meets the
 conditions specified in paragraphs (1) and (2). ↑

subparagraph (B)

subparagraph (A
 and (B)

[An individual will be deemed to have attained age 65

Sec. 165(a) if he is alive on the first day of the month he attains age 65
 even though he dies prior to attaining such age.

(2) Every individual who—

Sec. 125(a)(1) (A) has not attained age 65, but

(B) (i) is entitled to disability insurance benefits
 under section 223, or (ii) has attained the age of 18
 and is entitled to child's insurance benefits under sec-
 tion 202 (d) and is under a disability (as defined in
 section 223 (c)) which began before he attained age
 18, or (iii) has not attained age 62 and is entitled to
 widow's insurance benefits on the basis of being under
 a disability (as so defined), or (iv) is a qualified rail-
 road retirement beneficiary,

shall be entitled to hospital insurance benefits under part A
 of title XVIII for each month beginning with the later of
 (a) January 1968 or (b) the first month for which he
 satisfies the applicable conditions of subparagraph (B), and

ending with the eleventh month after the first month in which he ceases to meet the applicable conditions of subparagraph (B) or, if earlier, with the month before the month in which he attains age 65. Notwithstanding clause (iii) of subparagraph (B), a widow or surviving divorced wife who has attained age 62 shall be deemed to have satisfied the applicable conditions of such subparagraph (B) in any month in which (i) she is entitled to benefits under section 202 (e) (or would be but for paragraph (i) (E) of such section 202 (e)) and (ii) she would be entitled to such benefits (but without regard to such paragraph (1) (E)) on the basis of being under a disability (as defined in section 223 (c)) had the period, specified in section 202 (e) (5) , ended in the month she attains 65, instead of the month she attains 62; and the first month in which she shall be deemed not to have satisfied such applicable conditions shall be the eleventh month following the first month in which such benefits would have been terminated on the basis of the concurrence of an event specified in section 202 (e) (1) .

Sec. 125(a)(1)

226(b)

(b) For purposes of subsection (a) —

Sec. 130(c)(13)

Sec. 126(a)*

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of title XVIII on his behalf for inpatient hospital services, post-hospital extended care services, ~~post-hospital home health services, and outpatient hospital diagnostic services~~ (as such terms are defined in part C of title XVIII) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1814~~(4)~~) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services or post-hospital home health services unless the discharge from the hospital required to qualify such services for payment under part A of title XVIII qualify such services for payment under part A of title XVIII occurred after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later,

and

(e)

(1)

Sec. 125(●)(2)

or (ii) if he was

entitled to hospital insurance benefits pursuant to paragraph (2) of subsection (a), at a time when he was so entitled (but only if there has been no intervening termination of such entitlement) ; and

(2) an individual shall be deemed entitled to monthly insurance ~~beneficiary~~ for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

benefits

(c) For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 21 of the Railroad Retirement Act of 1937. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 21 of the Railroad Retirement Act of 1937.

(d) For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 103 of the Social Security Amendments of 1965.

*Effective with respect to services furnished after December 31, 1967.

Transitional Insured Status

Sec. 227. (a) In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 214(a), the 6 quarters of coverage referred to in so much of paragraph (1) of section 214(a) as follows clause (C) shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 202(a), and of his wife to benefits under section 202(b), but, in the case of such wife, only if she attains the age of 72 before 1969 and only with respect to wife's insurance benefits under section 202(b) for and after the month in which she attains such age. For each month before the month in which any such individual meets the requirements of section 214(a), the amount of his old-age insurance benefit shall, notwithstanding the provisions of section 202(a), be ~~\$95~~ ^{\$17.50}, and the amount of the wife's insurance benefit of his wife shall, notwithstanding the provisions of section 202(b), be ~~\$95~~ ^{\$17.50}.

\$50

§104(a)(1)*

\$25

§104(a)(1)*

(b) In the case of any individual who has died, who does not meet the requirements of section 214(a), and whose widow attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 214(a) and in so much of paragraph (1) thereof as follows clause (C) shall, for purposes of determining her entitlement to widow's insurance benefits under section 202(e), instead be—

(1) 3 quarters of coverage if such widow attains the age of 72 in or before 1966.

(2) 4 quarters of coverage if such widow attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such widow attains the age of 72 in 1968.

\$50

The amount of her widow's insurance benefit for each month shall, notwithstanding the provisions of section 202(e) (and section 202(m)), be ~~\$95~~ ^{\$17.50}.

§104(a)(2)*

(c) In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 202(a) by reason of the application of subsection (a) of this section, who dies, and whose widow attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such widow to widow's insurance benefits under section 202(e).

Benefits at Age 72 for Certain Uninsured Individuals

Eligibility

Sec. 228. (a) Every individual who—

(1) has attained the age of 72,

(2) (A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

(3) is a resident of the United States (as defined in subsection (e)), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United

*Applicable with respect to monthly insurance benefits under title II of the Act for months after May 1967 (sec. 104(c)).

States (as defined in section 210(i)) continuously during the 5 years immediately preceding the month in which he files application under this section, and

(4) has filed application for benefits under this section, shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

Benefit Amount

§104(b)(1)*	(b)(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be ~~\$35~~	\$50
§104(b)(2)*	(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be ~~\$35~~ and the amount of the wife's benefit for such month shall be ~~\$17.50~~ .	\$50 \$25

Reduction for Governmental Pension System Benefits

(c)(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) ~~\$17.50~~.

§104(b)(3)*	over (B) ~~\$17.50~~ .	\$25
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(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) ~~\$35~~, and

§104(b)(4)*	such month, over (ii) ~~\$35~~ , and	\$50
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(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) ~~\$17.50~~.

§104(b)(5)*	month, over (ii) ~~\$17.50~~ .	\$25
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(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

*Applicable with respect to monthly insurance benefits under title II of the Act for months after May 1967 (sec. 104(c)).

(A) such individual shall be deemed to have filed application for such benefits,

(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than \$1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10.

(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than \$5 may be accumulated until they equal or exceed \$5.

Suspension for Months in Which Cash Payments Are Made Under Public Assistance

(d) The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI, or

(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month.

Suspension Where Individual Is Residing Outside the United States

(e) The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term "United States" means the 50 States and the District of Columbia.

Treatment as Monthly Insurance Benefits

§110(c)(2)*

(f) For purposes of subsections (t) ~~and (u)~~ of section 202, and of section 1840 a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 202.

Retirement

Annual Reimbursement of Federal ~~Old-Age~~ and Survivors Insurance Trust Fund

(g) There are authorized to be appropriated to the Federal ~~Old-Age~~ and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Secretary of Health, Education, and Welfare deems necessary on account of—

(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage,

(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

(3) any loss in interest to such Trust Fund resulting from such payments and expenses, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if such payments had not been made.

Definitions

(h) For purposes of this section—

(1) The term "quarter of coverage" includes a quarter of coverage as defined in section 5(1) of the Railroad Retirement Act of 1937.

(2) The term "governmental pension system" means the insurance system established by this title or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

(3) The term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (h) of section 216 without regard to subsections (b) and (f) of section 216.

*Effective upon enactment. NOTE editorial correction: "subsections" changed to "subsection".

TITLE XVIII—HEALTH INSURANCE FOR THE AGED**Prohibition Against Any Federal Interference**

Sec. 1801. Nothing in this title shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer or employee of any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or person.

Free Choice by Patient Guaranteed

Sec. 1802. Any individual entitled to insurance benefits under this title may obtain health services from any institution, agency, or person qualified to participate under this title if such institution, agency, or person undertakes to provide him such services.

Option to Individuals To Obtain Other Health Insurance Protection

Sec. 1803. Nothing contained in this title shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services.

Part A—Hospital Insurance Benefits for the Aged**Description of Program**

Sec. 1811. The insurance program for which entitlement is established by section 226 provides basic protection against the costs of hospital and related post-hospital services in accordance with this part for individuals who are age 65 or over and are entitled to retirement benefits under title II of this Act or under the railroad retirement system.

Scope of Benefits

Sec. 1812. (a) The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on his behalf (subject to the provisions of this part) for—

- (1) inpatient hospital services for up to 90 days during any spell of illness;

Sec. 130(c)(3)(A)(2) post-hospital extended care services for up to 100 days during any spell of illness; ~~and~~

(3) post-hospital home health services for up to 100 visits (during the one-year period described in section 1861(n)) after the beginning of one spell of illness and before the beginning of the next ~~and~~

Sec. 130(c)(3)(C) ~~(4) outpatient hospital diagnostic services.~~

(b) Payment under this part for services furnished an individual during a spell of illness may not (subject to subsection (c)) be made for—

(1) inpatient hospital services furnished to him during such spell after such services have been furnished to him for 90 days during such spell;

(2) post-hospital extended care services furnished to him during such spell after such services have been furnished to him for 100 days during such spell; or

(3) inpatient psychiatric hospital services furnished to him after such services have been furnished to him for a total of 190 days during his lifetime.

Sec. 164

(c) If an individual is an inpatient of a psychiatric hospital or a tuberculosis hospital on the first day of the first month for which he is entitled to benefits under this part, the days on which he was an inpatient of such a hospital in the 90-day period immediately before such first day shall be included in determining the 90-day limit under subsection (b) (1) ~~(but not in determining the 190-day limit under subsection (b) (3)).~~

(d) Payment under this part may be made for post-hospital home health services furnished an individual only during the one-year period described in section 1861(n) following his most recent hospital discharge which meets the requirements of such section, and only for the first 100 visits in such period. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items or services described in section 1861(m), shall be determined in accordance with regulations.

(e) For purposes of subsections (b), (c), and (d), inpatient hospital services, inpatient psychiatric hospital services, post-hospital extended care services, and post-hospital home health services shall be taken into account only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1814(a), made with respect to such services under this part.

(f) For definition of "spell of illness", and for definitions of other terms used in this part, see section 1861.

insofar as such limitation applies to inpatient psychiatric hospital services or to inpatient tuberculosis hospital services, as the case may be

Deductibles and Coinsurance

Sec. 1813. (a)(1) The amount payable for inpatient hospital services furnished an individual during any spell of illness shall be reduced by a deduction equal to the inpatient hospital deductible or, if less, the charges imposed with respect to such individual for such services, except that, if the

customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed. Such amount shall be further reduced by a coinsurance amount equal to one-fourth of the inpatient hospital deductible for each day (before the 91st day) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 60 days during such spell.

Sec. 130(c)(4)

~~(3) The amount payable for outpatient hospital diagnostic services furnished an individual during a diagnostic study shall be reduced by a deduction equal to the sum of (A) one-half of the inpatient hospital deductible which is applicable to spells of illness beginning in the same calendar year as such diagnostic study and (B) 20 per centum of the remainder of such amount. For purposes of the preceding sentence, a diagnostic study for any individual consists of the outpatient hospital diagnostic services provided by (or under arrangements made by) the same hospital during the 20-day period beginning on the first day (not included in a previous diagnostic study) on which he is entitled to hospital insurance benefits under section 226 and on which outpatient hospital diagnostic services are furnished him.~~

~~(3) The amount payable to any provider of services under this part for services furnished an individual during any spell of illness shall be further reduced by an amount equal to the cost of the first three pints of whole blood furnished to him as part of such services during such spell of illness.~~

(2)

~~(4) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days during such spell.~~

(3)

(b)(1) The inpatient hospital deductible which shall be applicable for the purposes of subsection (a) shall be \$40 in the case of any spell of illness or diagnostic study beginning before 1969.

Sec. 130(c)(5)

(2) The Secretary shall, between July 1 and October 1 of 1968, and of each year thereafter, determine and promulgate the inpatient hospital deductible which shall be applicable for the purposes of subsection (a) in the case of any spell of illness ~~or diagnostic study~~ beginning during the succeeding calendar year. Such inpatient hospital deductible shall be equal to \$40 multiplied by the ratio of (A) the current average per diem rate for inpatient hospital services for the calendar year preceding the promulgation, to (B) the current average per diem rate for such services for 1966. Any amount determined under the preceding sentence which is not a multiple of \$4 shall be rounded to the nearest multiple of \$4 (or, if it is midway between two multiples of \$4, to the next higher multiple of \$4). The current average per diem rate for any year shall be determined by the Secretary on the basis of the best information available to him (at the time the determination is made) as to the amounts paid under this part on account of inpatient hospital services furnished during such year, by hospitals which have agreements in effect under section 1866, to individuals who are entitled to hospital insurance benefits under section 226, plus the amount which would have been so paid but for subsection (a)(1) of this section.

Conditions of and Limitations on Payment for Services

Requirement of Requests and Certifications

Sec. 126(a)*

Sec. 1814. (a) Except as provided in subsection (d), payment for services furnished an individual may be made only to providers of services which are eligible therefor under section 1866 and only if—

(c)

(1) written request, signed by such individual except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulation prescribe;

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

Sec. 131(a)(1)**

~~(A) in the case of inpatient hospital services (other than inpatient psychiatric hospital services and inpatient tuberculosis hospital services), such services are or were required to be given on an inpatient basis for such individual's medical treatment, or that inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;~~

Sec. 131(a)(2)**

~~(B) in the case of inpatient psychiatric hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the psychiatric treatment of an individual; and (i) such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary or (ii) inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;~~

(A)

Sec. 131(a)(2)**

~~(C) in the case of inpatient tuberculosis hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the treatment of an individual for tuberculosis; and such treatment can or could reasonably be expected to (i) improve the condition for which such treatment is or was necessary or (ii) render the condition non-communicable;~~

(B)

Sec. 131(a)(2)**

~~(D) in the case of post-hospital extended care services, such services are or were required to be given on an inpatient basis because the individual needs or needed skilled nursing care on a continuing basis for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (8) of section 1861(e)) prior to transfer to the extended care facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the~~

(C)

(Sec. 126(c)).

* Effective with respect to services furnished after December 31, 1967
 ** Effective with respect to payments under title XVIII for services provided after June 30, 1967. (Sec. 131(b)).

Sec. 130(c)(6)(A)

condition or conditions for which he was receiving such inpatient hospital services; ~~A~~ or

Sec. 131(a)(2)*

~~(E)~~ in the case of post-hospital home health services, such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1861(m)(7)) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (8) of section 1861(e)) or post-hospital extended care services; a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual was under the care of a physician; ~~or~~

Sec. 130(c)(6)(B)

Sec. 130(c)(6)(C)

~~(F) in the case of outpatient hospital diagnostic services, such services are or were required for diagnostic study;~~

(D)

(3) with respect to inpatient hospital services.

Sec. 131(a)(4)*

(other than inpatient psychiatric hospital services and inpatient tuberculosis services) a physician certifies, in those cases where such services are furnished over a period of time, that such services are required to be given on an inpatient basis for such individual's medical treatment, or that inpatient diagnostic study is medically required and such services are necessary for such purpose, except that (A) such certification shall be furnished only in such cases, with such frequency, and accompanied by such supporting material, appropriate to the cases involved, as may be provided by regulation, and (B) the first such certification required under clause (A) shall be furnished no later than the 20th day of such period;

* Applicable with respect to payments under title XVIII of the Social Security Act for services provided after June 30, 1967.

- Sec. 131(a)(3)* ~~(A)~~ in the case of inpatient psychiatric hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving (A) intensive treatment services, (B) admission and related services necessary for a diagnostic study, or (C) equivalent services; (4)
- Sec. 131(a)(3)* ~~(A)~~ in the case of inpatient tuberculosis hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving treatment which could reasonably be expected to (A) improve his condition or (B) render it noncommunicable; (5)
- Sec. 131(a)(3)* ~~(A)~~ with respect to inpatient hospital services furnished such individual after the 20th day of a continuous period of such services and with respect to post-hospital extended care services furnished after such day of a continuous period of such services as may be prescribed in or pursuant to regulations, there was not in effect, at the time of admission of such individual to the hospital or extended care facility, as the case may be, a decision under section 1866(d) (based on a finding that utilization review of long-stay cases is not being made in such hospital or facility); and (6)
- Sec. 131(a)(3)* ~~(A)~~ with respect to inpatient hospital services or post-hospital extended care services furnished such individual during a continuous period, a finding has not been made (by the physician members of the committee or group, as described in section 1861(k)(4)) pursuant to the system of utilization review that further inpatient hospital services or further post-hospital extended care services, as the case may be, are not medically necessary; except that, if such a finding has been made, payment may be made for such services furnished before the 4th day after the day on which the hospital or extended care facility, as the case may be, received notice of such finding. (7)
- Sec. 130(c)(7) To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), ~~(D)~~, ~~(E)~~, or ~~(F)~~ of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations. or (D)
- Sec. 131(a)(5)*

Reasonable Cost of Services

(b) The amount paid to any provider of services with respect to services for which payment may be made under this part shall, subject to the provisions of section 1813, be the reasonable cost of such services, as determined under section 1861(v).

~~No Payments to Federal Providers of Services~~

- Sec. 126(a)** ~~(c) No payment may be made under this part (except under subsection (d)) to any Federal provider of services, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services for any item or service which such provider is obligated by a law of, or a contract with, the United States to render at public expense.~~

***Effective with respect to payments under title XVIII for services provided after June 30, 1967. (Sec. 131(b))**

****Effective with respect to services furnished after December 31, 1967. (Sec. 126(e))**

Payments for Emergency Hospital Services

Sec. 126(a)*

Sec. 130(c)(8)

~~(d)~~ Payments shall also be made to any hospital for inpatient hospital services ~~or outpatient hospital diagnostic services~~ furnished, by the hospital or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital insurance benefits under section 226 even though such hospital does not have an agreement in effect under this title if (A) such services were emergency services and (B) the Secretary would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder. Such payments shall be made only in the amounts provided under subsection (b) and then only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 1866(a).

(c)

Sec. 126(a)*

Payment for Inpatient Hospital Services Prior to Notification of Noneligibility

~~(d)~~ Notwithstanding that an individual is not entitled to have payment made under this part for inpatient hospital services furnished by any hospital payment shall be made to such hospital (unless it elects not to receive such payment or, if payment has already been made by or on behalf of such individual, fails to refund such payment within the time specified by the Secretary) for such services which are furnished to the individual prior to notification to such hospital from the Secretary of his lack of entitlement, if such payments are precluded only by reason of section 1812 and if such hospital complies with the requirements of and regulations under this title with respect to such payments, has acted in good faith and without knowledge of such lack of entitlement, and has acted reasonably in assuming entitlement existed. Payment under the preceding sentence may not be made for the services furnished an individual pursuant to any admission after the 6th elapsed day (not including as an elapsed day Saturday, Sunday, or legal holiday) after the day on which such admission occurred.

(d)

Payment for Certain Emergency Hospital Services Furnished Outside the United States

Sec. 126(a)*

~~(d)~~ The authority contained in subsection ~~(d)~~ shall be applicable to emergency inpatient hospital services furnished an individual by a hospital located outside the United States if—

(e)

(c)

(1) such individual was physically present in a place within the United States at the time the emergency which necessitated such inpatient hospital services occurred; and

(2) such hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

Payment to Providers of Services

Sec. 1815. The Secretary shall periodically determine the amount which should be paid under this part to each provider of services with respect to the services furnished by it, and the provider of services shall be paid, at such time or times as the Secretary believes appropriate (but not less often than monthly) and prior to audit or settlement by the General Accounting

***Effective with respect to services furnished after December 31, 1967.**
(Sec. 126(c))

Office, from the Federal Hospital Insurance Trust Fund, the amounts so determined, with necessary adjustments on account of previously made overpayments or underpayments; except that no such payments shall be made to any provider unless it has furnished such information as the Secretary may request in order to determine the amounts due such provider under this part for the period with respect to which the amounts are being paid or any prior period.

Use of Public Agencies or Private Organizations to Facilitate Payment to Providers of Services

Sec. 1816. (a) If any group or association of providers of services wishes to have payments under this part to such providers made through a national, State, or other public or private agency or organization and nominates such agency or organization for this purpose, the Secretary is authorized to enter into an agreement with such agency or organization, providing for the determination by such agency or organization (subject to such review by the Secretary as may be provided for by the agreement) of the amount of the payments required pursuant to this part to be made to such providers, and for the making of such payments by such agency or organization to such providers. Such agreement may also include provision for the agency or organization to do all or any part of the following: (1) to provide consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as hospitals, extended care facilities, or home health agencies, and (2) with respect to the providers of services which are to receive payments through it (A) to serve as a center for, and communicate to providers, any information or instructions furnished to it by the Secretary, and serve as a channel of communication from providers to the Secretary; (B) to make such audits of the records of providers as may be necessary to insure that proper payments are made under this part; and (C) to perform such other functions as are necessary to carry out this subsection.

(b) The Secretary shall not enter into an agreement with any agency or organization under this section unless (1) he finds (A) that to do so is consistent with the effective and efficient administration of this part, and (B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 226, and the agreement provides for such assistance, and (2) such agency or organization agrees to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section as the Secretary may find necessary in performing his functions under this part.

(c) An agreement with any agency or organization under this section may contain such terms and conditions as the Secretary finds necessary or appropriate, may provide for advances of funds to the agency or organization for the making of payments by it under subsection (a), and shall provide for payment of so much of the cost of administration of the agency or organization as is determined by the Secretary to be necessary and proper for carrying out the functions covered by the agreement.

(d) If the nomination of an agency or organization as provided in this section is made by a group or association of providers of services, it shall not be binding on members of the group or association which notify the Secretary of their election to that effect. Any provider may, upon such notice as may be specified in the agreement under this section with an agency or organization, withdraw its nomination to receive payments through such agency or organization. Any provider which has withdrawn its nomination, and any provider which has not made a nomination, may elect to receive payments from any agency or organization which has entered into an agreement with the Secretary under this section if the Secretary and such agency or organization agree to it.

(e) An agreement with the Secretary under this section may be terminated—

(1) by the agency or organization which entered into such agreement at such time and upon such notice to the Secretary, to the public, and to the providers as may be provided in regulations, or

(2) by the Secretary at such time and upon such notice to the agency or organization, to the providers which have nominated it for purposes of this section, and to the public, as may be provided in regulations, but only if he finds, after reasonable notice and opportunity for hearing to the agency or organization, that (A) the agency or organization has failed substantially to carry out the agreement, or (B) the continuation of some or all of the functions provided for in the agreement with the agency or organization is disadvantageous or is inconsistent with the efficient administration of this part.

(f) An agreement with an agency or organization under this section may require any of its officers or employees certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in carrying out the agreement, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(g)(1) No individual designated pursuant to an agreement under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

(3) No such agency or organization shall be liable to the United States for any payments referred to in paragraph (1) and (2).

Federal Hospital Insurance Trust Fund

Sec. 1817. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Hospital Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1966, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes imposed by section 3101(b) and 3111(b) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such

Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of ~~March~~ of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgement, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond

Sec. 166

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Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) (1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(b) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages paid after December 31, 1965. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(g) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1870(b) of this Act. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1870(b) of this Act.

(h) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g)(1).

Part B—Supplementary Medical Insurance Benefits for the Aged

Establishment of Supplementary Medical Insurance Program for the Aged

Sec. 1831. There is hereby established a voluntary insurance program to provide medical insurance benefits in accordance with the provisions of this part for individuals 65 years of age or over who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government.

Scope of Benefits

Sec. 1832. (a) The benefits provided to an individual by the insurance program established by this part shall consists of—

(1) entitlement to have payment made to him or on his behalf (subject to the provisions of this part) for medical and other health services, except those described in paragraph (2)(B); and

(2) entitlement to have payment made on his behalf (subject to the provisions of this part) for—

(A) home health services for up to 100 visits during a calendar year; and

(B) medical and other health services (other than physicians' services ~~unless furnished by a resident or intern of a hospital~~) furnished by a provider of services or by others under arrangements with them made by a provider of services.

(b) For definitions of "spell of illness", "medical and other health services", and other terms used in this part, see section 1861.

Payment of Benefits

Sec. 1833. (a) Subject to the succeeding provisions of this section, there shall be paid from the Federal Supplementary Medical Insurance Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits are payable under this part, amounts equal to—

(1) in the case of services described in section 1832(a)(1)—80 percent of the reasonable charges for the services; except that an organization which provides medical and other health services (or arranges for their availability) on a prepayment basis may elect to be

Sec. 161(a)*

* Applicable with respect to services furnished under title XVIII after June 30, 1967. (Sec. 161(c)).

paid 80 percent of the reasonable cost of services for which payment may be made under this part on behalf of individuals enrolled in such organization in lieu of 80 percent of the reasonable charges for such services if the organization undertakes to charge such individuals no more than 20 percent of such reasonable cost plus any amounts payable by them as a result of subsection (b); and

(2) in the case of services described in section 1832(a)(2)—80 percent of the reasonable cost of the services (as determined under section 1861(v)).

Sec. 130(c)(9)

(b) Before applying subsection (a) with respect to expenses incurred by an individual during any calendar year, the total amount of the expenses incurred by such individual during such year (which would, except for this subsection, constitute incurred expenses from which benefits payable under subsection (a) are determinable) shall be reduced by a deductible of \$50; except that (1) of the amount of the deductible for such calendar year as so determined shall first be reduced by the amount of any expenses incurred by such individual in the last three months of the preceding calendar year (or regarded under clause (2) as incurred in such preceding year with respect to services furnished in such last three months) and applied toward such individual's deductible under this section for such preceding year, and (2) the amount of any deduction imposed under section ~~1813(a)(2)(A)~~ with respect to ~~outpatient hospital diagnostic services~~ furnished in any calendar year shall be regarded as an incurred expense under this part for such year.

1852(b)

services to hospital
outpatients

(c) Notwithstanding any other provision of this part, with respect to expenses incurred in any calendar year in connection with the treatment of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital at the time such expenses are incurred, there shall be considered as incurred expenses for purposes of subsections (a) and (b) only whichever of the following amounts is the smaller:

(1) \$312.50, or

(2) 62½ percent of such expenses.

Sec. 130(c)(10)

(d) No payment may be made under this part with respect to any services furnished an individual to the extent that such individual is entitled (or would be entitled except for section 1813 ~~other than subsection (a)(2)(A) thereof~~) to have payment made with respect to such services under part A.

(e) No payment shall be made to any provider of services or other person under this part unless there has been furnished such information as may be necessary in order to determine the amounts due such provider or other person under this part for the period with respect to which the amounts are being paid or for any prior period.

Limitation on Home Health Services

Sec. 1834. (a) Payment under this part may be made for home health services furnished an individual during any calendar year only for 100

visits during such year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items and services described in section 1861(m), shall be determined in accordance with regulations.

(b) For purposes of subsection (a), home health services shall be taken into account only if payment under this part is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1835(a), made with respect to such services.

Sec. 126(b)*

Procedure for Payment of Claims of Providers of Services

Sec. 1835. ~~(a)~~ Payment for services described in section 1832(a)(2) furnished an individual may be made only to providers of services which are eligible therefor under section 1866(a), and only if—

Sec. 126(b)*

(1) written request, signed by such individual except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulations prescribe; and

(2) a physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations) that—

(A) in the case of home health services (i) such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1861(m)(7)) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, (ii) a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and

(B) in the case of medical and other health services, such services are or were medically required.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes a certification of the kind provided in subparagraph (A) or (B) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

~~(b) No payment may be made under this part to any Federal provider of services or other Federal agency, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services or other person for any item or service which such provider or person is obligated by a law of, or a contract with, the United States to render at public expense.~~

Sec. 126(b)*

* Applicable with respect to services furnished after December 31, 1967. (Sec. 126(e)).

Eligible Individuals

Sec. 1836. Every individual who—

(1) is entitled to hospital insurance benefits under part A, or

Sec. 125(a)(3)

~~(1) has attained the age of 65, and~~ (2) (A) is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this part, or (B) is entitled to hospital insurance benefits under part A, is eligible to enroll in the insurance program established by this part.

Sec. 165(b)

An individual will be deemed to have attained age 65 if he is alive on the first day of the month he attains age 65 even though he dies prior to attaining such age.

Enrollment Periods

Sec. 1837. (a) An individual may enroll in the insurance program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(b) ~~(1) No individual may enroll for the first time under this part more than 3 years after the close of the first enrollment period during which he could have enrolled under this part.~~

(1) No individual may enroll for the first time (in any continuous period of eligibility) under this part more than 3 years after the close of the first enrollment period (in such continuous period of eligibility) during which he could have enrolled under this part.

Sec. 125(a)(4)(A)

Sec. 125(a)(4)(B) (2) An individual whose enrollment under this part has terminated may not enroll for the second time under this part unless he does so in a general enrollment period (as provided in subsection (e)) which begins within 3 years after the effective date of such termination. No individual may enroll under this part more than twice.

(during any continuous period of eligibility)

(3) For purposes of paragraphs (1) and (2) (and section 1839 (c)), individual's "continuous period of eligibility" is the period beginning with the first day on which he is eligible to enroll under section 1836 and ending with his death; except that any period during all of which an individual satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which he attained age 65 shall be a separate "continuous period of eligibility" with respect to such individual (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this section or section 1839 (c)).

paragraph
(1) or (2)

Sec. 125(a)(4)(E)

(c) In the case of individuals who first satisfy ~~paragraphs (1) and (2)~~ of section 1836 before March 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after the date of enactment of this title and shall end on May 31, 1966. ~~For purposes of this subsection and subsection (d), an individual who satisfies paragraph (2) of section 1836 solely by reason of subparagraph (B) thereof shall be treated as satisfying such paragraph (2) on the first day on which he is (or on filing application would be) entitled to hospital insurance benefits under part A.~~

For purposes of this

Sec. 125(a)(4)(F)

subsection and subsection (d), an individual who has attained age 65 and who satisfies paragraph (1) of section 1836 but not paragraph (2) of such section shall be treated as satisfying such paragraph (1) on the first day on which he is (or on filing application would have been) entitled to hospital insurance benefits under part A. ↗

Sec. 125(a)(4)(G)

(In the case of an individual who has not attained age 65 and who first satisfies paragraph (1) of section 1836 before August 1967, the initial enrollment period shall begin on June 1, 1967, and shall end on October 31, 1967.

~~(d) In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 on or after March 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later.~~

Sec. 125(a)(4)(H)

(d) In the case of an individual who, with respect to the period beginning with the month in which he attains age 65, first satisfies paragraph (1) or (2) of section 1836 on or after March 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month

in which he first satisfies such paragraph and shall end seven months later. In the case of an individual who has not attained age 65 and who first satisfies paragraph (1) of section 1836 after July 1967, his initial enrollment period shall begin on the day—

(1) he files his application for disability insurance benefits under section 223, or

(2) the widow or surviving divorced wife files her application for widow's insurance benefits under section 202 (e), or

(3) he files his application for child's insurance benefits under section 202 (d) after attaining age 18 on the basis of being under a disability (as defined in section 223 (c))

and shall end at the close of the fourth month following the month in which he is mailed notice of a final disability determination. In the case of a child entitled to child's insurance benefits before attaining age 18, such initial enrollment period shall begin on the first day of the sixth month preceding the month he attains such age but only if a determination is made that such child is under a disability (as so defined) which began before he attained age 18.

Where the Secretary finds that an individual failed to enroll under this part during his initial enrollment period (based on a determination by the Secretary of the

month in which such individual attained age 65), because such individual was mistaken as to his correct date of birth, the Secretary shall establish for such individual an initial enrollment period based on the documentary evidence of attainment of age 65 on the basis of which he initially sought to enroll.

Sec. 160

(e) There shall be a general enrollment period, after the period described in subsection (c), during the period beginning on October 1 and ending on December 31 of each odd-numbered year beginning with 1967.

(f) For purposes of subsections (b), (c), and (d) of this section (and for purposes of sections 1838 (a) and 1839 (c)), any enrollment under this part which terminates in the manner described in section 1838 (c) shall thereafter be deemed not to have existed.

Sec. 125(a)(4)(i)

Coverage Period

Sec. 1838. (a) The period during which an individual is entitled to benefits under the insurance program established by this part (hereinafter referred to as his "coverage period") shall begin on whichever of the following is the latest:

(1) ~~July 1, 1966, or~~

July 1, 1966, or (in

the case of an individual who has not attained age 65)

January 1, 1968 ; or

Sec. 125(a)(5)(A)(i)

Sec.125(a)(5)(A)(ii)	(2) (A) in the case of an individual who enrolls pursuant to subsection (d) of section 1837 before the month in which he first satisfies ~~paragraph (1) and (2)~~ of section 1836, the first day of such month, or	(who has attained age 65) paragraph (1) or (2)
paragraph	(B) in the case of an individual who enrolls pursuant to such subsection (d) in the month in which he first satisfies such ~~paragraphs~~ , the first day of the month following the month in which he so enrolls, or	(who has attained age 65)
Sec.125(a)(5)(A)(iii)	(C) in the case of an individual who enrolls pursuant to such subsection (d) in the month following the month in which he first satisfies such ~~paragraphs~~ , the first day of the second month following the month in which he so enrolls, or	(who has attained age 65) paragraph
	(D) in the case of an individual who enrolls pursuant to such subsection (d) more than one month following the month in which he satisfies such ~~paragraphs~~ , the first day of the third month following the month in which he so enrolls, or	(who has attained age 65) paragraph
	(E) in the case of an individual who enrolls pursuant to subsection (e) of section 1837, the July 1 following the month in which he so enrolls	, or

(3) (A) in the case of an individual who has not attained age 65 and who enrolls pursuant to subsection (d) of 1837 in a month prior to the month in which he is mailed notice of a final determination of disability, the first day of the month in which he is mailed such notice, or

(B) in the case of an individual who has not attained age 65 and who enrolls pursuant to subsection (d) of 1837 in the month in which he is mailed such notice, or the first month thereafter, the first day of the month following the month in which he so enrolls, or

(C) in the case of an individual who has not attained age 65 and who enrolls pursuant to subsection (d) of 1837 in the second month following the month in which he is mailed such notice, the first day of the second month following the month in which he so enrolls, or

Sec. 125(a)(5)(A)(iv) (D) in the case of an individual who has not attained age 65 and who enrolls pursuant to subsection (d) of 1837 more than two months following the month in which he is mailed such notice, the first day of the third month following the month in which he so enrolls.

(b) An individual's coverage period shall continue until his enrollment has been terminated—

(1) by the filing of notice, during a general enrollment period described in section 1837(e), that the individual no longer wishes to participate in the insurance program established by this part, or

(2) for nonpayment of premiums.

The termination of a coverage period under paragraph (1) shall take effect at the close of December 31 of the year in which the notice is filed. The termination of a coverage period under paragraph (2) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period (not in excess of 90 days) in which overdue premiums may be paid and coverage continued.

Sec. 125(a)(5)(B)

(c) In the case of an individual satisfying paragraph (1) of section 1836 whose entitlement to hospital insurance benefits under part A is based on a disability rather than on his having attained the age of 65, his coverage period (and his enrollment under this part) shall be terminated as of the close of the last month for which he is entitled to hospital insurance benefits.

~~(e)~~ No payments may be made under this part with respect to the expenses of an individual unless such expenses were incurred by such individual during a period which, with respect to him, is a coverage period.

(d)

Amounts of Premiums

Sec. 1839. (a) The monthly premium of each individual enrolled under this part for each month before 1968 shall be \$3.

(b) (1) The monthly premium of each individual enrolled under this part for each month after 1967 shall be the amount determined under paragraph (2).

(2) The Secretary shall, between July 1 and October 1 of 1967 and of each odd-numbered year thereafter, determine and promulgate the dollar amount which shall be applicable for premiums for months occurring in either of the two succeeding calendar years. Such dollar amount shall be such amount as the Secretary estimates to be necessary so that the aggregate premiums for such two succeeding calendar years will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for such two succeeding calendar years. In estimating aggregate benefits payable for any period, the Secretary shall include an appropriate amount for a contingency margin.

(c) In the case of an individual whose coverage period began pursuant to an enrollment after his initial enrollment period (determined pursuant to subsection (c) or (d) of section 1837), the monthly premium determined under subsection (b) shall be increased by 10 percent of the monthly premium so determined for each full 12 months in which he could have been but was not enrolled. For purposes of the preceding sentence, there shall be taken into account (1) the months which elapsed between the close of his initial enrollment period and the close of the enrollment period in which he enrolled, plus (in the case of an individual who enrolls for a second time) (2) the months which elapsed between the date of the termination of his first coverage period and the close of the enrollment period in which he enrolled for the second time.

(in the same continuous period of eligibility)

Sec. 125(a)(6)(A)

Any increase in an individual's monthly pre-

mium under the first sentence of this subsection with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which such individual may have.

Sec. 125(a)(6)(B)

(d) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

Payment of Premiums

Sec. 1840. (a) (1) In the case of an individual who is entitled to monthly benefits under section 202, his monthly premiums under this part shall (except as provided in subsection (d)) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deduction shall be made in such manner and at such times as the Secretary shall by regulation prescribe.

or 223

Sec. 125(a)(7)(A)

Sec. 125(a)(7)(B)

(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 202 which are payable from such Trust Fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

or 223

(b)(1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937, his monthly premiums under this part shall (except as provided in subsection (d)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

Sec. 125(a)(7)(C)

(c) In the case of an individual who is entitled both to monthly benefits under section 202 and to an annuity or pension under the Railroad Retirement Act of 1937 at the time he enrolls under this part, subsection (a) shall apply so long as he continues to be entitled both to such benefits and such annuity or pension. In the case of an individual who becomes entitled both to such benefits and such an annuity or pension after he enrolls under this part, subsection (a) shall apply if the first month for which he was entitled to such benefits was the same as or earlier than the first month for which he was entitled to such annuity or pension, and otherwise subsection (b) shall apply.

or 223

(d) If an individual to whom subsection (a) or (b) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(e)(1) In the case of an individual receiving an annuity under the Civil Service Retirement Act, or other Act administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (a) nor subsection (b) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Civil Service Commission

shall furnish such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other Act administered by the Civil Service Commission, to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(f) In the case of an individual who participates in the insurance program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (d) applies, the premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe.

(g) Amounts paid to the Secretary under subsection (d) or (f) shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.

(h) In the case of an individual who participates in the insurance program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d).

Federal Supplementary Medical Insurance Trust Fund

Sec. 1841. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Supplementary Medical Insurance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of ~~March~~ of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

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- (3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and
- (4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Any obligations acquired by the Trust Fund (except public debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retire-

ment Board) pursuant to section 1870(b) of this Act. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1870(b) of this Act.

(g) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g) (1).

(h) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to pay the costs incurred by the Civil Service Commission in making deductions pursuant to section 1840(e). During each fiscal year, or after the close of such fiscal year, the Civil Service Commission shall certify to the Secretary the amount of the costs it incurred in making such deductions, and such certified amount shall be the basis for the amount of such costs certified by the Secretary to the Managing Trustee.

Use of Carriers for Administration of Benefits

Sec. 1842. (a) In order to provide for the administration of the benefits under this part with maximum efficiency and convenience for individuals entitled to benefits under this part and for providers of services and other persons furnishing services to such individuals, and with a view to furthering coordination of the administration of the benefits under part A and under this part, the Secretary is authorized to enter into contracts with carriers, including carriers with which agreements under section 1816 are in effect, which will perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations); and, with respect to any of the following functions which involve payments for physicians' services, the Secretary shall to the extent possible enter into such contracts:

(1) (A) make determinations of the rates and amounts of payments required pursuant to this part to be made to providers of services and other persons on a reasonable cost or reasonable charge basis (as may be applicable);

(B) receive, disburse, and account for funds in making such payments; and

(C) make such audits of the records of providers of services as may be necessary to assure that proper payments are made under this part;

(2) (A) determine compliance with the requirements of section 1861(k) as to utilization review; and

(B) assist providers of services and other persons who furnish services for which payment may be made under this part in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, assist in the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to benefits under this part, and provide procedures for and assist in arranging, where necessary, the establishment of groups outside hospitals (meeting the requirements of section 1861(k) (2)) to make reviews of utilization;

(3) serve as a channel of communication of information relating to the administration of this part; and

(4) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this part.

(b)(1) Contracts with carriers under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

(2) No such contract shall be entered into with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1861(v));

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, (i) such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and (ii) such payment will be made on the basis of a receipted bill, or on the basis of an assignment under the terms of which the reasonable charge is the full charge for the service;

(except as otherwise provided in section 1870(f))

Sec. 153(d)

services

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness of when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

(4) Each contract under this section shall be for a term of at least one year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the carrier involved as he may provide in regulations) if he finds that the carrier has failed substantially to carry out the contract or is carrying out

the contract in a manner inconsistent with the efficient and effective administration of the insurance program established by this part.

(c) Any contract entered into with a carrier under this section shall provide for advances of funds to the carrier for the making of payments by it under this part, and shall provide for payment of the cost of administration of the carrier, as determined by the Secretary to be necessary and proper for carrying out the functions covered by the contract.

(d) Any contract with a carrier under this section may require such carrier or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(e) (1) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

(3) No such carrier shall be liable to the United States for any payments referred to in paragraph (1) or (2).

(f) For purposes of this part, the term "carrier" means—

(1) with respect to providers of services and other persons, a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization; and

(2) with respect to providers of services only, any agency or organization (not described in paragraph (1)) with which an agreement is in effect under section 1816.

**State Agreements for Coverage of Eligible Individuals
Who Are Receiving Money Payments Under
Public Assistance Programs**

(OR ARE ELIGIBLE
FOR MEDICAL ASSISTANCE)

Sec. 222(b)(3)

Sec. 1843. (a) The Secretary shall, at the request of a State made before January 1, ~~1968~~, enter into an agreement with such State pursuant to which all eligible individuals in either of the coverage groups described in subsection (b) (as specified in the agreement) will be enrolled under the program established by this part.

Sec. 222(e)(1)

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(b) An agreement entered into with any State pursuant to subsection (a) may be applicable to either of the following coverage groups:

- (1) individuals receiving money payments under the plan of such State approved under title I or title XVI; or
- (2) individuals receiving money payments under all of the plans of such State approved under titles, I, IV, X, XIV, and XVI.

Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937.

Sec.222(e)(2)(A)

Sec.222(e)(2)(B)

(c) For purposes of this section, an individual shall be treated as an eligible individual only if he is an eligible individual (within the meaning of section 1836) on the date an agreement covering him is entered into under subsection (a) or he becomes an eligible individual (within the meaning of such section) at any time after such date ~~and before January 1, 1968~~; and he shall be treated as receiving money payments described in subsection (b) if he receives such payments for the month in which the agreement is entered into or any month thereafter ~~before January 1968~~.

(d) In the case of any individual enrolled pursuant to this section—

(1) the monthly premium to be paid by the State shall be determined under section 1839 (without any increase under subsection (c) thereof);

(2) his coverage period shall begin on whichever of the following is the latest:

(A) July 1, 1966;

(B) the first day of the third month following the month in which the State agreement is entered into;

(C) the first day of the first month in which he is both an eligible individual and a member of a coverage group specified in the agreement under this section; or

Sec.222(e)(3)

(D) such date ~~(not later than January 1, 1968)~~ as may be specified in the agreement; and

(3) his coverage period attributable to the agreement with the State under this section shall end on the last day of whichever of the following first occurs:

(A) the month in which he is determined by the State agency to have become ~~ineligible for money payments of a kind specified in the agreement, or~~

ineligible both for money payments

of a kind specified in the agreement and (if there is in effect

Sec.222(b)(1)

a modification entered into under subsection (h)) for medical assistance, ~~or~~

(B) the month preceding the first month for which he becomes entitled to monthly benefits under title II or to an annuity or pension under the Railroad Retirement Act of 1937.

(e) Any individual whose coverage period attributable to the State agreement is terminated pursuant to subsection (d) (3) shall be deemed for purposes of this part (including the continuation of his coverage period under this part) to have enrolled under section 1837 in the initial general enrollment period provided by section 1837(c).

(f) With respect to eligible individuals receiving money payments under the plan of a State approved under title I, IV, X, XIV, or XVI ↗

Sec. 222(b)(2)(A)

for eligible to receive medical assistance under the plan of such State approved under title XIX, ↗

if the agreement entered into under this section so provides, the term "carrier" as defined in section 1842(f) also includes the State agency, specified in such agreement, which administers or supervises the administration of the plan of such State approved under title I, XVI, or XIX. The agreement shall also contain such provisions as will facilitate the financial transactions of the State and the carrier with respect to deductions, coinsurance, and otherwise, and as will lead to economy and efficiency of operation, with respect to individuals receiving money payments under plans of the State approved under titles I, IV, X, XIV, and XVI ↗

and individuals eligible to receive medical assistance

Sec. 222(b)(2)(B)

under the plan of the State approved under title XIX.

(g)(1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month).

(h) (1) The Secretary shall, at the request of a State made before January 1, 1970, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the coverage group described in subsection (b) and specified in such agreement is broadened to include individuals who are eligible to receive medical assistance under the plan of such State approved under title XIX.

(2) For purposes of this section, an individual shall be treated as eligible to receive medical assistance under the plan of the State approved under title XIX if, for the month in which the modification is entered into under this subsection or for any month thereafter, he has been determined to be eligible to receive medical assistance under such plan. In the case of any individual who would (but for this subsection) be included from the agreement, subsections (c) and (d) (2) shall be applied as if they referred to the modification under this subsection (in lieu of the agreement under subsection (a)), and subsection (d) (2) (C) shall be applied by substituting "second month following the first month" for "first month".

Sec. 222(a)

**Appropriations to Cover Government Contributions and
Contingency Reserve**

Sec. 1844. (a) There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund, a Government contribution equal to the aggregate premiums payable under this part.

(b) In order to assure prompt payment of benefits provided under this part and the administrative expenses thereunder during the early months of the program established by this part, and to provide a contingency reserve, there is also authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through the calendar year 1967 for repayable advances (without interest) to the Trust Fund, an amount equal to \$18 multiplied by the number of individuals (as estimated by the Secretary) who could be covered in July 1966 by the insurance program established by this part if they had theretofore enrolled under this part.

**PART C—OUTPATIENT HOSPITAL AND DIAGNOSTIC
SPECIALTY BENEFITS FOR THE AGED AND DISABLED**

Sec. 130(a)

DESCRIPTION OF PROGRAM

SEC. 1850. There is hereby established as a complement to the programs under part A and part B a special program related to the services furnished to individuals under such part A and part B programs providing for the payment for hospital services rendered to hospital outpatients and for the payment for diagnostic specialty services to hospital inpatients and outpatients.

SCOPE OF BENEFITS

SEC. 1851. The benefits provided to an individual by the insurance program established by this part shall consist of entitlement to have payment made to him or on his behalf (subject to the provisions of this part) for—

(a) services to hospital outpatients; and

(b) diagnostic specialty services to hospital inpatients.

For definitions of "services to hospital outpatients" and "diagnostic specialty services" see section 1861 (p) and (z), respectively.

AMOUNT OF BENEFITS

Sec. 130(a)

SEC. 1852. (a) Subject to the succeeding provisions of this section, there shall be paid, in the case of each individual who is covered under the program established under this part and who incurs expenses for services with respect to which benefits are payable under this part, an amount equal to—

(1) in the case of hospital services included in section 1851 (a), 80 per cent of the reasonable cost of the services;

(2) in the case of diagnostic specialty services to hospital outpatients included in section 1851 (a), 80 per cent of the reasonable charges for the services; and

(3) in the case of services described in section 1851 (b), the reasonable charges for the services.

(b) Before applying subsections (a) (1) and (a) (2) with respect to expenses incurred for services described in section 1851 (a) by an individual during any calendar year,

the total amount of the expenses incurred by such individual during such year (which would, except for this subsection, constitute incurred expenses from which benefits payable under subsection (a) are determinable) shall be reduced by a deductible of \$50; except that the amount of the deductible for such calendar year shall be reduced by the amount of any deductible imposed under section 1833 (b).

ELIGIBLE INDIVIDUALS

SEC. 1853. (a) Every individual who is eligible to enroll and has enrolled in the insurance program established by part B shall be entitled to have payment made for services, described in section 1851 (a) (subject to the provisions of section 1852), which are furnished him in the periods during which he is entitled to have payment made under such part for services described in section 1832 (a).

Sec. 130(a)

(b) Every individual who is entitled (under section 226 and section 103 of the Social Security Amendments of 1965) to have payment made on his behalf under part A for inpatient hospital services furnished during any month shall be entitled to have payment made under this part for services described in section 1851 (b) furnished him in such month as an inpatient in a hospital which is eligible for payment under section 1866 (a).

PAYMENT OF CLAIMS OF HOSPITALS

Sec. 130(a)

SEC. 1854. (a) Payment for services described in section 1851 (a) (except to the extent that such services are included under diagnostic specialty services) furnished an individual may be made only to hospitals which are eligible therefor under section 1866 (a) , and only if a written request is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulation prescribe.

(b) Payments shall also be made to any hospital for services to hospital outpatients (except to the extent that services are included under diagnostic specialty services) furnished, by the hospital or under arrangements (as defined in section 1861 (w)) with it, to an individual entitled under this part even though such hospital does not have an agreement in effect under this title if (1) such services were emergency services and (2) the Secretary would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder. Such payments shall be made only in the amounts provided under section 1812 (b) and then only if such hospital agrees to comply with respect to the emergency services provided, with the provisions of section 1866 (a) .

USE OF CARRIERS OR ORGANIZATIONS TO FACILITATE
PAYMENTS UNDER THIS PART

Sec. 130(a)

SEC. 1855. The Secretary is authorized to enter into such modifications of the agreements entered into pursuant to section 1816 and of the contracts entered into pursuant to section 1842 as he finds necessary in order to facilitate the administration of this part; and for such purposes such sections are applicable to the provisions of this part. To the extent feasible, the Secretary shall utilize the agreements entered into under section 1816 where payment is to be made on a reasonable cost basis and contracts entered into under section 1842 where payment is to be made on a reasonable charge basis. Where the services are furnished by a physician under an arrangement whereby the patient receiving such services discharges his financial liability only by payment to the physician either directly or through his agent, the methods of payment for charges provided under section 1842 shall apply. Payment for the services of a physician shall be made to him (or to the hospital if the physician has assigned his rights to the hospital) by the method provided in section 1842; except that if the physician so elects, payment may, in accordance with regulations, be made to the hospital to reimburse it for compensation paid by it to the physician.

PAYMENT OF BENEFITS

Sec.130(a)

SEC. 1856. Payment for services described in section 1851 (a) shall be made from the Federal Supplementary Medical Insurance Trust Fund. Payment for services described in section 1851 (b) shall be made from the Federal Hospital Insurance Trust Fund.

Part ~~A~~—Miscellaneous Provisions

D

Sec.130(a)

Definitions of Services, Institutions, etc.

Sec. 1861. For purposes of this title—

Spell of Illness

(a) The term "spell of illness" with respect to any individual means a period of consecutive days—

(1) beginning with the first day (not included in a previous spell of illness) (A) on which such individual is furnished inpatient hospital services or extended care services, and (B) which occurs in a month for which he is entitled to benefits under part A, and

(2) ending with the close of the first period of 60 consecutive days thereafter on each of which he is neither an inpatient of a hospital nor an inpatient of an extended care facility.

Inpatient Hospital Services

(b) The term "inpatient hospital services" means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

(1) bed and board;

(2) such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospital for the care and treatment of inpatients; and

(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

excluding, however—

(4) medical or surgical services provided by a physician, ~~resident,~~
~~or intern;~~ and

Sec.161(b)(1)*

(5) the services of a private-duty nurse or other private-duty attendant.

* Applicable with respect to services furnished under title XVIII after June 30, 1967. (Sec. 161(c)).

Sec. 161(b)(2)*

Paragraph (4) shall not apply to services ~~provided in the hospital~~ by an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association or, in the case of an osteopathic hospital, approved by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association, or, in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of dentistry, approved by the Council on Dental Education of the American Dental Association.

provided in
the hospital (A)

Sec. 161(b)(3)*

(or (B) by a hospital employee who is authorized by the State in which such hospital is located to practice as a physician only in a hospital .

Inpatient Psychiatric Hospital Services

(c) The term "inpatient psychiatric hospital services" means inpatient hospital services furnished to an inpatient of a psychiatric hospital.

Inpatient Tuberculosis Hospital Services

(d) The term "inpatient tuberculosis hospital services" means inpatient hospital services furnished to an inpatient of a tuberculosis hospital.

Sec. 126(a)*

Hospital

(e) The term "hospital" (except for purposes of section ~~1814(d)~~, subsection (a) (2) of this section, paragraph (7) of this subsection, and subsections (i) and (n) of this section) means an institution which—

1814(c)
and section
1854 (b)

Sec. 130(c)(11)

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff of physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

(6) has in effect a hospital utilization review plan which meets the requirements of subsection (k);

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing; and

(8) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution, except that such other requirements may not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals (subject to the second sentence of section 1863).

* Applicable with respect to services furnished under title XVIII after June 30, 1967. (Sec. 161(c))

**Effective with respect to services furnished after December 31, 1967. (Sec. 126(c)),

Sec. 126(a)*

Sec. 130(c)(11)

For purposes of subsection (a)(2), such term includes any institution which meets the requirements of paragraph (1) of this subsection. For purposes of sections ~~1814(d)~~ (including determination of whether an individual received inpatient hospital services for purposes of such section), and subsections (i) and (n) of this section, such term includes any institution which meets the requirements of paragraphs (1), (2), (3), (4), (5), and (7) of this subsection. Notwithstanding the preceding provisions of this subsection, such term shall not, except for purposes of subsection (a)(2), include any institution which is primarily for the care and treatment of mental diseases or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or unless it is a psychiatric hospital (as defined in subsection (f)). The term "hospital" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations. For provisions deeming certain requirements of this subsection to be met in the case of accredited institutions, see section 1865.

1814(c)
and section
1854 (b)

Psychiatric Hospital

(f) The term "psychiatric hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(2) satisfies the requirements of paragraphs (3) through (8) of subsection (e);

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under part A;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "psychiatric hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Tuberculosis Hospital

(g) The term "tuberculosis hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

(2) satisfies the requirements of paragraphs (3) through (8) of subsection (e);

*Effective with respect to services furnished after December 31, 1967.
(Sec. 126(c)).

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals covered by the insurance program established by part A;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "tuberculosis hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Extended Care Services

(h) The term "extended care services" means the following items and services furnished to an inpatient of an extended care facility and (except as provided in paragraphs (3) and (6)) by such extended care facility—

(1) nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) physical, occupational, or speech therapy furnished by the extended care facility or by others under arrangements with them made by the facility;

(4) medical social services;

(5) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the extended care facility, as are ordinarily furnished by such facility for the care and treatment of inpatients;

(6) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (1)), under a teaching program of such hospital approved as provided in the last sentence of subsection (b), and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

(7) such other services necessary to the health of the patients as are generally provided by extended care facilities; excluding, however, any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.

Post-Hospital Extended Care Services

(i) The term "post-hospital extended care services" means extended care services furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentence, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and he shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if he is admitted to the extended care facility within 14

days after discharge from such hospital; and an individual shall be deemed not to have been discharged from an extended care facility if, within 14 days after discharge therefrom, he is admitted to such facility or any other extended care facility.

Extended Care Facility

(j) The term "extended care facility" means (except for purposes of subsection (a)(2)) an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (1)) with one or more hospitals having agreements in effect under section 1866 and which—

(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

(4) (A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency;

(5) maintains clinical records on all patients;

(6) provides 24-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(8) has in effect a utilization review plan which meets the requirements of subsection (k);

(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(10) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary (subject to the second sentence of section 1863);

except that such term shall not (other than for purposes of subsection (a)(2)) include any institution which is primarily for the care and treatment of mental diseases or tuberculosis. For purposes of subsection (a)(2), such term includes any institution which meets the requirements of paragraph (1) of this subsection. The term 'extended care facility' also includes an institution described in paragraph (1) of subsection (y), to the extent and subject to the limitations provided in such subsection.

Utilization Review

(k) A utilization review plan of a hospital or extended care facility shall be considered sufficient if it is applicable to services furnished by the institution to individuals entitled to insurance benefits under this title and if it provides—

(1) for the review, on a sample or other basis, of admissions to the institution, the duration of stays therein, and the professional services (including drugs and biologicals) furnished, (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services;

(2) for such review to be made by either (A) a staff committee of the institution composed of two or more physicians, with or without participation of other professional personnel, or (B) a group outside the institution which is similarly composed and (i) which is established by the local medical society and some or all of the hospitals and extended care facilities in the locality, or (ii) if (and for as long as) there has not been established such a group which serves such institution, which is established in such other manner as may be approved by the Secretary;

(3) for such review, in each case of inpatient hospital services or extended care services furnished to such an individual during a continuous period of extended duration, as of such days of such period (which may differ for different classes of cases) as may be specified in regulations, with such review to be made as promptly as possible, after each day so specified, and in no event later than one week following such day; and

(4) for prompt notification to the institution, the individual, and his attending physician of any finding (made after opportunity for consultation to such attending physician) by the physician members of such committee or group that any further stay in the institution is not medically necessary.

The review committee must be composed as provided in clause (B) of paragraph (2) rather than as provided in clause (A) of such paragraph in the case of any hospital or extended care facility where, because of the small size of the institution, or (in the case of an extended care facility) because of lack of an organized medical staff, or for such other reason or reasons as may be included in regulations, it is impracticable for the institution to have a properly functioning staff committee for the purposes of this subsection.

Agreements for Transfer Between Extended Care Facilities and Hospitals

(1) A hospital and an extended care facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

(1) transfer of patients will be effected between the hospital and the extended care facility whenever such transfer is medically appropriate as determined by the attending physician; and

(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any extended care facility which does not have such an agreement in effect, but which is found by a State agency (of the State in which such facility is situated) with which an agreement under section 1864 is in effect (or, in the case of a State in which no such agency has an agreement under section 1864, by the Secretary) to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as such agency (or the Secretary, as the case may be) finds that to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this title.

Home Health Services

(m) The term "home health services" means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (7), provided on a visiting basis in a place of residence used as such individual's home—

(1) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(2) physical, occupational, or speech therapy;

(3) medical social services under the direction of a physician;

(4) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(5) medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

(6) in the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under a teaching program of such hospital approved as provided in the last sentence of subsection (b); and

(7) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or extended care facility, or at a rehabilitation center which meets such standards as may be prescribed in regulations, and—

(A) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A),

but not including transportation of the individual in connection with any such item or service;

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.

Post-Hospital Home Health Services

(n) The term "post-hospital home health services" means home health services furnished an individual within one year after his most recent discharge from a hospital of which he was an inpatient for not less than 3 consecutive days or (if later) within one year after his most recent dis-

charge from an extended care facility of which he was an inpatient entitled to payment under part A for post-hospital extended care services, but only if the plan covering the home health services (as described in subsection (m)) is established within 14 days after his discharge from such hospital or extended care facility.

Home Health Agency

(o) The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) maintains clinical records on all patients;

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and

(5) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization;

except that such term shall not include a private organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations; and except that for purposes of part A such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

~~Outpatient Hospital Diagnostic Services~~

~~(p) The term "outpatient hospital diagnostic services" means diagnostic services—~~

~~(1) which are furnished to an individual as an outpatient by a hospital or by others under arrangements with them made by a hospital; and~~

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~~(2) which are ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients for the purpose of diagnostic study;~~

~~excluding, however—~~

~~(3) any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital; and~~

~~(4) any services furnished under such arrangements unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.~~

Sec.130(c)(1)

Services to Hospital Outpatients

Sec.130(c)(2) (p) The term "services to hospital outpatients"

means—

(1) diagnostic specialty services furnished to an individual as a hospital outpatient; and

(2) services (A) which are furnished to an individual as an outpatient by a hospital or by others under arrangements with them made by a hospital (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) and (B) which are ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients;

excluding, however—

(3) any item or service (except diagnostic specialty services) if it would not be included under subsection (b) if furnished to an inpatient of a hospital; and

(4) any services furnished under arrangements referred to in paragraph (2) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff or furnished by another hospital which is qualified to participate under this title.

Physicians' Services

(q) The term "physicians' services" means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls (but not including services described in the last sentence of subsection (b)).

Physician

(r) The term "physician", when used in connection with the performance of any function or action, means (1) a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1101(a)(7)), or (2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw or (B) the reduction of any fracture of the jaw or any facial bone.

Medical and Other Health Services

(s) The term "medical and other health services" means any of the following items or services (unless they would otherwise constitute inpatient hospital services, extended care services, or home health services,

services to hospital outpatients, diagnostic

Sec.130(d)

specialty services to hospital inpatients);

Sec.127(a)*

(1) physicians' services;

or podiatrists' services

(2) services and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills, and hospital services (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) incident to physicians' services rendered to outpatients;

Sec.130(e)

(3) diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests;

(4) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians;

(5) surgical dressings, and splints, casts, and other devices used for reduction of fractures and dislocations;

(6) rental of durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home (including an institution used as his home)

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and, under such regu-

lations as the Secretary may prescribe, the purchase of such equipment;

* Effective with respect to services furnished after June 30, 1967. (Sec. 127(c)).

(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ, including replacement of such devices; and

(9) leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition.

No diagnostic tests performed in any laboratory which is independent of a physician's office or a hospital shall be included within paragraph (3) unless such laboratory—

(10) if situated in any State in which State or applicable local law provides for licensing of establishments of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing establishments of this nature, as meeting the standards established for such licensing; and

(11) meets such other conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

Drugs and Biologicals

(t) The term "drugs" and the term "biologicals", except for purposes of subsection (m) (5) of this section, include only such drugs and biologicals, respectively, as are included (or approved for inclusion) in the United States Pharmacopoeia, the National Formulary, or the United States Homeopathic Pharmacopoeia, or in New Drugs or Accepted Dental Remedies (except for any drugs and biologicals unfavorably evaluated therein), or as are approved by the pharmacy and drug therapeutics committee (or equivalent committee) of the medical staff of the hospital furnishing such drugs and biologicals for use in such hospital.

Provider of Services

(u) The term "provider of services" means a hospital, extended care facility, or home health agency.

Reasonable Cost

(v) (1) The reasonable cost of any services shall be determined in accordance with regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services; except that in any case to which paragraph (2) or (3) applies, the amount of the payment determined under such paragraph with respect to the services involved shall be considered the reasonable cost of such services. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such

principles) in computing the amount of payment, to be made by persons other than the recipients of services, to providers of services on account of services furnished to such recipients by such providers. Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, and may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs. Such regulations shall (A) take into account both direct and indirect costs of providers of services in order that, under the methods of determining costs, the costs with respect to individuals covered by the insurance programs established by this title will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by such insurance programs, and (B) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive.

(2)(A) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations more expensive than semi-private accommodations, the amount taken into account for purposes of payment under this title with respect to such services may not exceed an amount equal to the reasonable cost of such services if furnished in such semi-private accommodations unless the more expensive accommodations were required for medical reasons.

(B) Where a provider of services which has an agreement in effect under this title furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under part A or part B, as the case may be, the Secretary shall take into account for purposes of payment to such provider of services only the equivalent of the reasonable cost of the items or services with respect to which such payment may be made.

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations other than, but not more expensive than, semi-private accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this title, the amount of the payment with respect to such bed and board under part A shall be the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hospital or extended care facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(4) For purposes of this subsection, the term "semi-private accommodations" means two-bed, three-bed, or four-bed accommodations.

Sec.129(a)(1)*

(5) (A) Notwithstanding any other provision of this title, the term 'reasonable cost' shall include amounts attributable to depreciation of plant and equipment in the case of any provider of service, but only with respect to periods during which such provider of service furnishes, pursuant to such regulations as the Secretary may prescribe, satisfactory assurance that such provider will—

(i) set aside, and keep separate and apart from any other funds or assets, such amounts attributable to depreciation of plant and equipment (including any interest on such amounts) as he may be paid to such provider under this title;

(ii) furnish to the Secretary, at such time or times as he may request, such timely information and reports, with respect to such amounts, as the Secretary finds necessary in performing his functions under this title;

(iii) not utilize such amounts for improper capital expenditures; and

(iv) not utilize such amounts for noncapital expenditures except under such conditions as may be approved, in accordance with regulations prescribed by the Secretary, by the State agency designated pursuant to section 1864 (c).

* Effective with respect to payments under title XVIII of the Social Security Act to provider of service for services provided after June 30, 1968. (Sec. 129(a)(2)).

(B) A capital expenditure by a provider of service shall be deemed improper if the State agency, designated pursuant to section 1864 (c) determines that such capital expenditure does not conform to the overall plan developed, in accordance with regulations prescribed by the Secretary, by such State agency for adequate health care facilities and such provider of service had notice of such overall plan.

(C) Where a provider of service utilizes funds (whether or not such funds include the amounts referred to in subparagraph (A)), for a capital expenditure which, under the provisions of subparagraph (B), are determined to be improper, or such provider fails substantially to comply with clause (i), (ii), or (iv) of subparagraph (A), the Secretary may—

(i) terminate the agreement with such provider of service entered into pursuant to section 1866, and for such purposes the provisions of subsection (b) of such section shall apply, or

(ii) deduct from future payments under this title to such provider of services, for such periods of time as the Secretary finds necessary to effectuate the purposes of this paragraph, the amounts attributable to depreciation of such improper capital expenditure, and such portion (or any part thereof) of other cost of services

to individuals covered by the insurance programs established by this title as the Secretary finds attributable to such improper capital expenditures.

(D) For purposes of this paragraph, a "capital expenditure" means (except to the extent that the meaning of such term shall be modified pursuant to regulations of the Secretary) an expenditure which, under accepted accounting procedures, is not properly chargeable as an expense of operation or maintenance.

Arrangements for Certain Services

(w) The term "arrangements" is limited to arrangements under which receipt of payment by the hospital, extended care facility, or home health agency (whether in its own right or as agent), with respect to services for which an individual is entitled to have payment made under this title, discharges the liability of such individual or any other person to pay for the services.

State and United States

(x) The terms "State" and "United States" have the meaning given to them by subsections (h) and (i), respectively, of section 210.

Post-Hospital Extended Care in Christian Science Extended Care Facilities

(y) (1) The term "extended care facility" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only (except for purposes of subsection (a) (2)) with respect to items and services ordinarily furnished by such an institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations.

(2) Notwithstanding any other provision of this title, payment under part A may not be made for services furnished an individual in an extended care facility to which paragraph (1) applies unless such individual elects, in accordance with regulations, for a spell of illness to have such services treated as post-hospital extended care services for purposes of such part; and payment under part A may not be made for post-hospital extended care services—

(A) furnished an individual during such spell of illness in an extended care facility to which paragraph (1) applies after—

(i) such services have been furnished to him in such a facility for 30 days during such spell, or

(ii) such services have been furnished to him during such spell in an extended care facility to which such paragraph does not apply; or

(B) furnished an individual during such spell of illness in an extended care facility to which paragraph (1) does not apply after such services have been furnished to him during such spell in an extended care facility to which such paragraph applies.

(3) The amount payable under part A for post-hospital extended care services furnished an individual during any spell of illness in an extended care facility to which paragraph (1) applies shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day before the 31st day on which he is furnished such services in such a facility during such spell (and the reduction under this paragraph shall be in lieu of any reduction under section 1813(a)(4)).

(4) For purposes of subsection (i), the determination of whether services furnished by or in an institution described in paragraph (1) constitute post-hospital extended care services shall be made in accordance with and subject to such conditions, limitations, and requirements as may be provided in regulations.

Podiatrists' Services

Sec. 127(b)* (z) The term "podiatrists' services" means services performed by a doctor of podiatry or surgical chiropody, but only with respect to functions which he is legally authorized to perform as such by the State in which he performs them.

Diagnostic Specialty Services

Sec. 130(b) (z) The term "diagnostic specialty services" means diagnostic X-Ray services and diagnostic laboratory services furnished by a physician to an individual either as an inpatient or an outpatient of a hospital and other services (to the extent defined in regulations of the Secretary) related thereto.

* Effective with respect to services furnished after June 30, 1967. (Sec. 127(e)).

Exclusions From Coverage

Sec. 1862. (a) Notwithstanding any other provision of this title, no payment may be made under part A or part B for any expenses incurred for items or services—

(1) which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member;

(2) for which the individual furnished such items or services has no legal obligation to pay, and which no other person (by reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for;

(3) which are paid for directly or indirectly by a governmental entity (other than under this Act and other than under a health benefits or insurance plan established for employees of such an entity), except in such cases as the Secretary may specify;

Sec. 126 (a)*

(4) which are not provided within the United States (except for emergency inpatient hospital services furnished outside the United States under the conditions described in section 1814~~(4)~~);

(e)

(5) which are required as a result of war, or of an act of war, occurring after the effective date of such individual's current coverage under such part;

(6) which constitute personal comfort items;

(7) where such expenses are for routine physical checkups, eyeglasses or eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, hearing aids or examinations therefor, or immunizations;

(8) where such expenses are for orthopedic shoes or other supportive devices for the feet;

(9) where such expenses are for custodial care;

(10) where such expenses are for cosmetic surgery or are incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member;

Sec. 127(c)(1)*

(11) where such expenses constitute charges imposed by immediate relatives of such individual or members of his household; ~~and~~

Sec. 127(c)(2)**

(12) where such expenses are for services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth

; or

(13) where such expenses are for routine foot care, including the removal of corns or calluses and the trimming of nails.

Sec. 127(c)(3)**

(b) Payment under this title may not be made with respect to any item or service to the extent that payment has been made, or can reasonably be

*Effective with respect to services furnished after December 31, 1967.
(Sec. 126(c)).

**Effective with respect to services furnished after June 30, 1967.
(Sec. 127(c)).

expected to be made (as determined in accordance with regulations), with respect to such item or service, under a workmen's compensation law or plan of the United States or a State. Any payment under this title with respect to any item or service shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under such a law or plan.

Consultation With State Agencies and Other Organizations To Develop Conditions of Participation for Providers of Services

Sec. 1863. In carrying out his functions, relating to determination of conditions of participation by providers of services, under subsections (e) (8), (f) (4), (g) (4), (j) (10), and (o) (5) of section 1861, the Secretary shall consult with the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies, and recognized national listing or accrediting bodies, and may consult with appropriate local agencies. Such conditions prescribed under any of such subsections may be varied for different areas or different classes of institutions or agencies and may, at the request of a State, provide higher requirements for such State than for other States; except that, in the case of any State or political subdivision of a State which imposes higher requirements on institutions as a condition to the purchase of services (or of certain specified services) in such institutions under a State plan approved under title I, XVI, or XIX, the Secretary shall impose like requirements as a condition to the payment for services (or for the services specified by the State or subdivision) in such institutions in such State or subdivision.

Use of State Agencies To Determine Compliance by Providers of Services With Conditions of Participation

Sec.129(b)

Sec. 1864. (a) The Secretary shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by him for the purpose of determining whether an institution therein is a hospital or extended care facility, or whether an agency therein is a home health agency, or whether a laboratory meets the requirements of paragraphs (10) and (11) of section 1861(s). To the extent that the Secretary finds it appropriate, an institution or agency which such a State (or local) agency certifies is a hospital; extended care facility, or home health agency (as those terms are defined in section 1861) may be treated as such by the Secretary. The Secretary may also, pursuant to agreement, utilize the services of State health agencies and other appropriate State agencies (and the appropriate local agencies) to do any one or more of the following: (1) to provide consultative services to institutions ~~or agencies~~ to assist them (A) to establish and maintain fiscal records necessary for purposes of this title, or otherwise to qualify as hospitals, extended care facilities, or home health agencies, or (B) to provide information

And To Provide
Programs of
Health-Care
Facility
Planning

, agencies, or
laboratories

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which may be necessary to permit determination under this title as to whether payments are due and the amounts thereof, and (2) to provide consultative services to institutions, agencies, or organizations to assist in the establishment of utilization review procedures meeting the requirements of section 1861(k) and in evaluating their effectiveness.

(b) The Secretary shall pay any such State, in advance or by way of reimbursement, as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (a), and for the Federal Hospital Insurance Trust Fund's fair share of the costs attributable to the planning and other efforts directed toward coordination of activities in carrying out its agreement and other activities related to the provision of services similar to those for which payment may be made under part A, or related to the facilities and personnel required for the provision of such services, or related to improving the quality of such services.

Sec. 129(c)

(c) (1) For purposes of administering the provision of section 1861(v)(5), the Secretary shall make an agreement with any State which is able and willing to do so under which he will be authorized to utilize the services of a State agency (designated by the State) which (A) provides for health-care facility and equipment planning in all political subdivisions of the State to meet the needs in the most efficient and economical manner possible of residents of the States for adequate health-care, (B) coordinates its activities with other agencies engaged in health service planning and participate in interstate and regional health-care facility program, (C) assists the health-care facilities located within the State with their programs of planning for carrying on

Sec. 129(c)

health, educational and research activities, including related educational and research activities, and (D) if the agency designated by the State is other than an agency established pursuant to section 314 (a) (2) of the Public Health Service Act, coordinates (or provides reasonable assurance that it will coordinate) its activities under section 1861 (v) (5) with, and in these activities is guided by the planning policies and procedures of, the agency established pursuant to such section 314 (a) (2).

(2) The Secretary shall pay from the Federal Hospital Insurance Trust Fund to any State with which he makes an agreement described in paragraph (1), in advance or by way of reimbursement, as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or underpayments previously made) for the reasonable cost of performing the services for purposes of carrying out paragraph (5) (B) of section 1861 (v).

Effect of Accreditation

Sec. 1865. Except as provided in the second sentence of section 1863, an institution shall be deemed to meet the requirements of the numbered paragraphs of section 1861 (e) (except paragraph (6) thereof) if such institution is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. If such Commission, as a condition for accreditation of a hospital, requires a utilization review plan or imposes another requirement which serves substantially the same purpose, the Secretary is authorized to find that all institutions so accredited by the Commission comply also with section 1861 (e) (6). In addition, if the Secretary finds that accreditation of an institution or agency by the American Osteopathic Association or any other national accreditation body provides reasonable assurance that any or all of the conditions of section 1861 (e), (j), or (o), as the case may be, are met, he may, to the extent he deems it appropriate, treat such institution or agency as meeting the condition or conditions with respect to which he made such finding.

Agreements With Providers of Services

Sec. 1866. (a) (1) Any provider of services shall be qualified to participate under this title and shall be eligible for payments under this title if it files with the Secretary an agreement—

Sec. 126(a)*

(A) not to charge, except as provided in paragraph (2), any individual or any other person for items or services for which such individual is entitled to have payment made under this title (or for which he would be so entitled if such provider of services had complied with the procedural and other requirements under or pursuant to this title or for which such provider is paid pursuant to the provisions of section 1814~~(e)~~), and

(d)

(B) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individual or other person.

Sec. 130(c)(12)(B)

(2) (A) A provider of services may charge such individual or other person (i) the amount of any deduction or coinsurance amount imposed pursuant to section 1813(a) (1), ~~(a) (2), or (a) (4)~~, section 1833(b), or section 1861(y) (3) with respect to such items and services (not in excess of the amount customarily charged for such items and services by such provider), and (ii) an amount equal to 20 per centum of the reasonable charges for such items and services (not in excess of 20 per centum of the amount customarily charged for such items and services by such provider) for which payment is made under part B or, in the case of ~~outpatient hospital diagnostic services, for which payment is made under part A~~. In the case of items and services described in section 1833(c), clause (ii) of the preceding sentence shall be applied by substituting for 20 percent the proportion which is appropriate under such section.

or (a)(3)

Sec. 130(c)(12)(A)

(B) Where a provider of services has furnished, at the request of such individual, items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this title, such provider of services may also charge such individual or other person for such more expensive items or services to the extent that the amount customarily charged by it for the items or services furnished at such request exceeds the amount customarily charged by it for the items or services with respect to which payment may be made under this title.

services to hospital outpatients, as defined in section 1861(p)(2)

(C) A provider of services may also charge any such individual for any whole blood furnished him with respect to which a deductible is imposed under section 1813(a) (3), except that (i) any excess of such charge over the cost to such provider for the blood shall be deducted from any payment to such provider under this title, (ii) no such charge may be imposed for the cost of administration of such blood, and (iii) such charge may not be made to the extent such blood has been replaced on behalf of such individual or arrangements have been made for its replacement on his behalf.

(b) An agreement with the Secretary under this section may be terminated—

(1) by the provider of services at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than 6 months shall not be required, or

(2) by the Secretary at such time and upon such reasonable notice to the provider of services and the public as may be specified in regulations, but only after the Secretary has determined (A) that such provider of services is not complying substantially with the provisions of such agreement, or with the provisions of this title and regulations thereunder, or (B) that such provider of services no longer substantially

*Effective with respect to services furnished after December 31, 1967.
(Sec. 126(c)),

meets the applicable provisions of section 1861, or (C) that such provider of services has failed to provide such information as the Secretary finds necessary to determine whether payments are or were due under this title and the amounts thereof, or has refused to permit such examination of its fiscal and other records by or on behalf of the Secretary as may be necessary to verify such information.

Any termination shall be applicable—

(3) in the case of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to such services furnished to any individual who is admitted to the hospital or extended care facility furnishing such services on or after the effective date of such termination,

(4) (A) with respect to home health services furnished to an individual under a plan therefor established on or after the effective date of such termination, or (B) if a plan is established before such effective date, with respect to such services furnished to such individual after the calendar year in which such termination is effective, and

(5) with respect to any other items and services furnished on or after the effective date of such termination.

(c) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, such provider may not file another agreement under this title unless the Secretary finds that the reason for the termination has been removed and that there is reasonable assurance that it will not recur.

(d) If the Secretary finds that there is a substantial failure to make timely review in accordance with section 1861(k) of long-stay cases in a hospital or extended care facility, he may, in lieu of terminating his agreement with such hospital or facility, decide that, with respect to any individual admitted to such hospital or facility after a subsequent date specified by him, no payment shall be made under this title for inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) after the 20th day of a continuous period of such services or for post-hospital extended care services after such day of a continuous period of such care as is prescribed in or pursuant to regulations, as the case may be. Such decision may be made effective only after such notice to the hospital, or (in the case of an extended care facility) to the facility and the hospital or hospitals with which it has a transfer agreement, and to the public, as may be prescribed by regulations, and its effectiveness shall terminate when the Secretary finds that the reason therefor has been removed and that there is reasonable assurance that it will not recur. The Secretary shall not make any such decision except after reasonable notice and opportunity for hearing to the institution or agency affected thereby.

Health Insurance Benefits Advisory Council

Sec. 1867. For the purpose of advising the Secretary on matters of general policy in the administration of this title and in the formulation of regulations under this title, there is hereby created a Health Insurance Benefits Advisory Council which shall consist of 16 persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the civil service laws. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include persons who are outstanding in fields related to hospital, medical, and other health activities, and at least one person who is representative of the general public. Each member shall hold office for a term of 4 years, except that any

member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. A member shall not be eligible to serve continuously for more than 2 terms. The Secretary may, at the request of the Council or otherwise, appoint such special advisory professional or technical committees as may be useful in carrying out this title. Members of the Advisory Council and members of any such advisory or technical committee, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Council or of such committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. The Advisory Council shall meet as frequently as the Secretary deems necessary. Upon request of 4 or more members, it shall be the duty of the Secretary to call a meeting of the Advisory Council.

National Medical Review Committee

Sec. 1868. (a) There is hereby created a National Medical Review Committee (hereinafter in this section referred to as the "Committee") which shall consist of ~~five~~ sixteen persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the civil service laws. The Secretary shall from time to time appoint one of the members to serve as chairman. The members shall be selected from among individuals who are representative of organizations and associations of professional personnel in the field of medicine and other individuals who are outstanding in the field of medicine or in related fields; except that at least one member shall be representative of the general public, and at least a majority of the members shall be physicians. Each member shall hold office for a term of ~~three~~ four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, ~~three~~ four at the end of the first year, ~~three~~ four at the end of the second year, ~~and three~~ and four at the end of the third year, ~~after~~ and four at the end of the fourth year the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

(b) Members of the Committee, while attending meetings or conferences thereof or otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including travel time, and while so serving away from their

Sec. 128(1)

Sec. 128(2)

homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(c) It shall be the function of the Committee to study the utilization of hospital and other medical care and services for which payment may be made under this title with a view to recommending any changes which may seem desirable in the way in which such care and services are utilized or in the administration of the programs established by this title, or in the provisions of this title. The Committee shall make an annual report to the Secretary of the results of its study, including any recommendations it may have with respect thereto, and such report shall be transmitted promptly by the Secretary to the Congress.

(d) The Committee is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Committee such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the Committee may require to carry out its functions.

Determinations; Appeals

Sec. 1869. (a) The determination of whether an individual is entitled to benefits under part A or part B, and the determination of the amount of benefits under part A, shall be made by the Secretary in accordance with regulations prescribed by him.

(b) Any individual dissatisfied with any determination under subsection (a) as to entitlement under part A or part B, or as to amount of benefits under part A where the matter in controversy is \$100 or more, shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and, in the case of a determination as to entitlement or as to amount of benefits where the amount in controversy is \$1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(c) Any institution or agency dissatisfied with any determination by the Secretary that it is not a provider of services, or with any determination described in section 1866(b)(2), shall be entitled to a hearing thereon by the Secretary (after reasonable notice and opportunity for hearing) to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

Overpayments on Behalf of Individuals

Sec. 1870. (a) Any payment under this title to any provider of services or other person with respect to any items or services furnished any individual shall be regarded as a payment to such individual.

And Settlement
Of Claims For
Benefits on
Behalf Of
Deceased
Individuals

Sec. 153(b)

(b) Where—

Sec. 126 (a)*

(1) more than the correct amount is paid under this title to a provider of services or other person for items or services furnished an individual and the Secretary determines that, within such period as he may specify, the excess over the correct amount cannot be recouped from such provider of services or other person, or

(2) any payment has been made under section 1814(e) to a provider of services or other person for items or services furnished an individual,

(d)

proper adjustments shall be made, under regulations prescribed (after consultation with the Railroad Retirement Board) by the Secretary, by decreasing subsequent payments—

(3) to which such individual is entitled under title II of this Act or under the Railroad Retirement Act of 1937, as the case may be, or

(4) if such individual dies before such adjustment has been completed, to which any other individual is entitled under title II of this Act or under the Railroad Retirement Act of 1937, as the case may be, with respect to the wages and self-employment income or the compensation constituting the basis of the benefits of such deceased individual under title II of such Act.

As soon as practicable after any adjustment under paragraph (3) or (4) is determined to be necessary, the Secretary, for purposes of this section, section 1817(g), and section 1841(f), shall certify (to the Railroad Retirement Board if the adjustment is to be made by decreasing subsequent payments under the Railroad Retirement Act of 1937) the amount of the overpayment as to which the adjustment is to be made.

Sec. 126(a)*

(c) There shall be no adjustment as provided in subsection (b) (nor shall there be recovery) in any case where the incorrect payment has been made (including payments under section 1814(e)) with respect to an individual who is without fault and where such adjustment (or recovery) would defeat the purposes of title II or would be against equity and good conscience.

(d)

(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any provider of services or other person where the adjustment or recovery of such amount is waived under subsection (c) or where adjustment under subsection (b) is not completed prior to the death of all persons against whose benefits such adjustment is authorized.

Sec. 153(c)

(e) If an individual who received medical and other health services for which payment may be made under section 1832(a) (1) dies, and payment for such services was made (other than under this title) and the individual died before any payment due with respect to such services was completed, payment of the amount due (including the amount of any unnegotiated checks) shall be made—

*Effective with respect to services furnished after December 31, 1967.
(Sec. 126(c)),

(1) if such payment for such services was made by a person other than the deceased individual, to the person or persons determined by the Secretary under regulations prescribed by him to have paid for such services;

Sec. 153(c)

(2) if such payment for such services was made by the deceased individual before his death, or if there is no person to whom payment can be made under paragraph (1) (or if each such person dies before such payment is completed). (A) to the legal representative of the estate of such deceased individual, if any; (B) if there is no legal representative, to the person, if any, determined by the Secretary to be the surviving spouse of the deceased individual and to have been living in the same household with the deceased at the time of his death; (C) if there is no person who meets the requirements of clause (A) or (B) . or if each such person dies before payment due him under this title is completed. to the person, if any, determined by the Secretary to be a spouse of the deceased individual who was, for the month

Sec. 153(c)

in which the deceased individual died, entitled to a monthly benefit under title II on the basis of the same wages and self-employment income as was the deceased individual; or (D) if there is no person who meets the requirements of clause (A), (B) or (C), or if each such person dies before payment due him under this title is completed, to the person or persons, if any, determined by the Secretary to be the child or children of such deceased individual (and in case there is more than one such child, in equal parts to each such child); or (E) if there is no person who meets the requirements of clause (A), (B), (C) or (D), or if each such person dies before payment due him under this title is completed, to such person or persons, related to such deceased individual by blood, marriage, or adoption, as the Secretary determines (under such regulations as he may prescribe) to be the proper person or persons to receive such payment on behalf of the estate of such deceased individual.

(f) If an individual who received medical and other health services for which payment may be made under section 1832 (a) (1) dies, and (1) no assignment of the right to payments was made by such individual before his death, and (2) payment for such services has not been made, payment for such services shall be made to the physician or

Sec. 153(c)

other persons who provided such services. Payment shall be made under this subsection only in such amount and subject to such conditions as would have been applicable if the individual who received the services had not died, and only if the person or persons who provided the services agrees that the reasonable charge is the full charge for the services.

Regulations

Sec. 1871. The Secretary shall prescribe such regulations as may be necessary to carry out the administration of the insurance programs under this title. When used in this title, the term "regulations" means, unless the context otherwise requires, regulations prescribed by the Secretary.

Application of Certain Provisions of Title II

Sec. 1872. The provisions of sections 206, 208, and 216(j), and of subsections (a), (d), (e), (f), (h), (i), (j), (k), and (l) of section 205, shall also apply with respect to this title to the same extent as they are applicable with respect to title II.

Designation of Organization or Publication by Name

Sec. 1873. Designation in this title, by name, of any nongovernmental organization or publication shall not be affected by change of name of such organization or publication, and shall apply to any successor organization or publication which the Secretary finds serves the purpose for which such designation is made.

Administration

Sec. 1874. (a) Except as otherwise provided in this title and in the Railroad Retirement Act of 1937, the insurance programs established by this title shall be administered by the Secretary. The Secretary may perform any of his functions under this title directly, or by contract providing for payment in advance or by way of reimbursement, and in such installments, as the Secretary may deem necessary.

(b) The Secretary may contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this title.

Studies and Recommendations

Sec. 1875. (a) The Secretary shall carry on studies and develop recommendations to be submitted from time to time to the Congress relating to health care of the aged, including studies and recommendations concerning (1) the adequacy of existing personnel and facilities for health care for purposes of the programs under parts A and B; (2) methods for encouraging the further development of efficient and economical forms of health care which are a constructive alternative to inpatient hospital care; and (3) the effects of the deductibles and coinsurance provisions upon beneficiaries, persons who provide health services, and the financing of the program.

(b) The Secretary shall make a continuing study of the operation and administration of the insurance programs under parts A and B, and shall transmit to the Congress annually a report concerning the operation of such programs.

Sec. 101--

(g) If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act for May 1967 and became entitled to ~~old-age~~ retirement insurance benefits under section 202 (a) of such Act for June 1967, or he died in such month, then, for purposes of section 215 (a) (4) of the Social Security Act (if applicable) the amount in column ~~IV~~_A of the table appearing in such section 215 (a) for such individual shall be the amount in such column on the line on which in column ~~II~~_A appears his primary insurance amount (as determined under section 215 (c) of such Act) instead of the amount in column ~~IV~~_A equal to his disability insurance benefit.

§154(h)=

III

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* Applicable in the case of an individual—

(A) who meets any of the provisions of paragraph (4) of section 215 (b) of the Social Security Act, as amended by section 101 (c) of this Act, or

(B) who died before June 1967 without being entitled to benefits under section 202 (a) or section 223, and no persons were entitled (without the application of section 202 (j) (1) and section 223 (b)) to monthly benefits under such section 202 (a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual. (Sec. 154(j).)

Sec. 105--

(i) Where—

(1) two or more persons were entitled (without the application of subsection (j) (1) of section 202 of the Social Security Act) to monthly benefits under such section 202 for the effective month (as hereinafter defined) on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is entitled to monthly benefits under subsection (g) of such section 202 for such effective month, and

(2) no person, other than the persons referred to in paragraph (1) of this subsection, becomes entitled to benefits under such section 202 on the basis of such deceased individual's wages and self-employment income for a subsequent month or for any month after the effective month and before such subsequent month, but the person, referred to in such paragraph (1) as entitled to benefits under such subsection (g), becomes entitled to benefits under subsection (e) of section 202 on the basis of disability, and

(3) the total of the benefits to which all such persons are entitled under section 202 of such Act on the basis of such deceased individual's wages and self-employment income for such subsequent month is reduced by reason of the application of section 203 (a) of such Act,

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined without re-

gard to this section if, after the application of this section, such benefit for such month is less than such benefit for the effective month. The preceding provisions of this subsection shall not apply to any monthly benefit of any person for any month beginning after the effective month under this section unless paragraph (3) also applies to such benefit for such month of entitlement (or would so apply but for the next to the last sentence of section 203 (a) of the Social Security Act). For purposes of this subsection, "effective month" means the first month after the month in which this Act is enacted.

* * * * *

Sec. 11 --

(g) The requirement in section 202 (h) (1) (B) of the Social Security Act that proof of support be filed within two years after a specified date in order to establish eligibility for parent's insurance benefits shall, insofar as such requirement applies to cases where applications under such subsection are filed by parents on the basis of the wages and self-employment income of an individual entitled to ~~old age or~~ disability insurance benefits, not be applicable if such proof of support is filed within two years after the date of enactment of this Act.

* * * * *

retirement

SIMPLIFICATION OF COMPUTATION OF PRIMARY INSURANCE AMOUNT AND QUARTER OF COVERAGE IN THE CASE OF 1937-1950 WAGES

SEC. 154. (a) (1) Section 215(a) of the Social Security Act is amended by—

(A) striking out "III" in paragraph (1) and inserting in lieu thereof "II", and striking out "IV" in such paragraph and inserting in lieu thereof "III";

(B) striking out "II" in paragraph (1) and inserting in lieu thereof "I", and striking out "IV" in such paragraph and inserting in lieu thereof "III";

(C) striking out paragraph (3);

(D) redesignating paragraph (4) as paragraph (3), and by striking out "IV" in such paragraph and inserting in lieu thereof "III"; and

(E) redesignating paragraph (5) (added to section 215(a) of such Act by section 102(a) of this Act) and the reference thereto as paragraph (4).

(2) Section 215(a) of such Act (as amended by section 101(a) of this Act) is further amended by striking out column I of the table inserted in such section 215(a) by such section 101(a), and by redesignating columns II, III, IV, and V of such table as I, II, III, and IV, respectively.

*See sec. 154(1), p. 238

(h) Section 215 (b) of such Act is amended by—

(1) striking out in paragraph (1) "III" and inserting in lieu thereof "II"; and

(2) revising subparagraph (C) of paragraph (2) to read as follows:

(C) For the purposes of subparagraph (B), "computation base years" include calendar years in the period after 1936 and prior to the earlier of the following years—

(i) the year in which occurred (whether by reason of section 202 (j) (1) or otherwise) the first month for which the individual was entitled to old-age insurance benefits, or

(ii) the year succeeding the year in which he died, except that years prior to 1951 may be included only if, pursuant to subparagraph (D), wages are deemed to have been paid in such year. Any calendar year (after 1950) all of which is included in a period of disability shall not be included as a computation base year.

(D) For purposes of subparagraphs (B) and (C)—

(i) an individual whose total wages prior to 1951 do not exceed \$12,000 shall be deemed to have been paid such wages in equal parts in four calendar years;

*See sec. 154(j), p. 238.

(ii) an individual whose total wages prior to 1951 exceed \$12,000 and are less than \$42,000 shall be deemed to have been paid (I) \$3,000, in each calendar year prior to 1951, but only to the extent that the total of such calendar years is equal to the integer derived by dividing the total of such wages paid prior to 1951 by \$3,000, and (II) the excess of such total of such wages over the product of \$3,000 times such integer, in an additional calendar year;

*

(iii) an individual whose total wages prior to 1951 are at least \$42,000 shall be deemed to have been paid \$3,000 in each of fourteen calendar years.

(E) For purposes of subparagraph (D), "total wages" with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Secretary, (ii) wages deemed paid to such individual under section 217, and (iii) compensation under the Railroad Retirement Act of 1937 creditable to him pursuant to this title.

* * * * *

*See sec. 154(j), p. 238

Sec. 154--

(j) The preceding provisions of this section shall be applicable in the case of an individual—

(A) who meets any of the provisions of paragraph (4) of section 215 (b) of the Social Security Act, as amended by section 101 (e) of this Act, or

(B) who died before June 1967 without being entitled to benefits under section 202 (a) or section 223, and no persons were entitled (without the application of section 202 (j) (1) and section 223 (b)) to monthly benefits under such section 202 (a) or section 223 for any month before June 1967 on the basis of the wages and self-employment income of such individual.

RELATED ENACTMENTS IN 1966

P.L. 89-368 (80 Stat. 38), Approved March 15, 1966
(Tax Adjustment Act of 1966)

Sec. 302. Benefits at Age 72 for Certain Uninsured Individuals

• • • • •

● (b) Certain Applications Under 1965 Amendments.—For purposes of paragraph (4) of section 228(a) of the Social Security Act (added by subsection (a) of this section), an application filed under section 103 of the Social Security Amendments of 1965 before July 1966 shall be regarded as an application under such section 228 and shall, for purposes of such paragraph and of the last sentence of such section 228(a), be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded.

P.L. 89-384 (80 Stat. 99), Approved April 8, 1966

Sec. 3. Two-Month Extension of Initial Enrollment Period for Supplementary Medical Insurance Benefits for the Aged

• • • • •

● (d) In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a) (2) (D) of such Act, begin on July 1, 1966.

* * * * *

Sec. 103. --

* * * * *

(b) The provisions of subsection (a) shall not apply to any individual who—

(1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 210(a)(17) of the Social Security Act,

§110(a)*

(2) has, prior to the beginning of such first month, been convicted of any offense listed in section 202(u) of the Social Security Act, or

(A) at the beginning of such first month is covered by an enrollment in a health benefits plan under the Federal Employees Health Benefits Act of 1959,

(B) was so covered on February 16, 1965, or

(C) could have been so covered for such first month if he or some other person had availed himself of opportunities to enroll in a health benefits plan under such Act and to continue such enrollment (but this subparagraph shall not apply unless he or such other person was a Federal employee at any time after February 15, 1965).

This
subsection

Paragraph (3) shall not apply in the case of any individual for the month (or any month thereafter) in which coverage under such a health benefits plan ceases (or would have ceased if he had had such coverage) by reason of his or some other person's separation from Federal service, if he or such other person was not (or would not have been) eligible to continue such coverage after such separation.

§110(a)*

* * * * *

Suspension in Case of Aliens; Persons Convicted of Subversive Activities

Sec. 104. * * *

(b)

(1) No payments shall be made under part B of title XVIII of the Social Security Act with respect to expenses incurred by an individual during any month for which such individual may not be paid monthly benefits under title II of such Act (or for which such monthly benefits would be suspended if he were otherwise entitled thereto) by reason of section 202(t) of such Act (relating to suspension of benefits of aliens who are outside the United States).

§110(b)*

(2) An individual who has been convicted of any offense under (A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18 of the United States Code, or (B) section 4, 112, or 113 of the Internal Security Act of 1950, as amended, may not enroll under part B of title XVIII of the Social Security Act.

§110(b)*

*These amendments are effective July 30, 1965, as though they had been incorporated in the Social Security Amendments of 1965 on that date (sec. 110(e)(1)).

Section 125(b) of H.R. 5710 adds the following new section after section 21:

HOSPITAL INSURANCE BENEFITS FOR THE DISABLED

SEC. 22. Individuals under age sixty-five who are entitled to annuities under paragraph 4 or 5 of section 2 (a) or are entitled to annuities under section 5 (c) (or who have been or would be considered in applying the provisions of section 3 (e) (3)) and have attained the age of eighteen and have a disability (within the meaning of section 5 (1) (1) (ii)) and who are in a 'period of disability' (as this term is described in section 3 (e)) and, with respect to individuals entitled to annuities under paragraph 4 or 5 of section 2 (a), are not in a 'waiting period' (as defined in section 223 (c) (3) of the Social Security Act) shall be certified by the Board under section 21 in the same manner, for the same purposes, and subject to the same conditions, restrictions, and other provisions as individuals specifically described in such section 21, and also subject to the same conditions, restrictions, and other provisions as are disability beneficiaries under title II of the Social Security Act in connection with their eligibility for hospital insurance benefits under part A of title XVIII of such Act and their eligibility to enroll under part B of such title XVIII; and for the purposes of this Act and title XVIII of the Social Security Act, individuals certified as provided in this section shall be considered individuals described in and certified under such section 21.

SELECTED PROVISIONS OF THE INTERNAL
REVENUE CODE OF 1954

1401(a)

Subtitle A—Income Taxes

CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

SEC. 1401. RATE OF TAX.

(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

§101(c)*

(3) in the case of any taxable year beginning after December 31, 1968, and before January 1, 1973, the tax shall be equal to 6.6 percent of the amount of the self-employment income for such taxable year; and

SEC. 1402. DEFINITIONS.

(b) SELF-EMPLOYMENT INCOME.—The term “self-employment income” means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year; except that such term shall not include—

(1) that part of the net earnings from self-employment which is in excess of—

(A) for any taxable year ending prior to 1955, (i) \$3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) for any taxable year ending after 1954 and before 1959, (i) \$4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) for any taxable year ending after 1958 and before 1966, (i) \$4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

§107(b)(1)(A)**

(D) for any taxable year ending after 1965, (i) \$6,600, minus (ii) the amount of the wages paid to such individual during the taxable year; ~~or~~ and

and before 1968

§107(b)(1)(B)**

(E) for any taxable year ending after 1967

and before 1971, (i) \$7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(F) for any taxable year ending after 1970 and before 1974, (i) \$9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(G) for any taxable year ending after 1973,

(i) \$10,800 minus (ii) the amount of the wages

paid to such individual during the taxable year; or .

*Applicable only with respect to taxable years beginning after December 31, 1968 (sec. 101(d)).

**Applicable only with respect to taxable years ending after 1967 (sec. 107(c)).

(2) the net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

For purposes of clause (1), the term "wages" includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or under an agreement entered into pursuant to the provisions of section 3121(1) (relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations, as would be wages under section 3121(a)) if such services constituted employment under section 3121(b). An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual.

* * * * *

Subtitle C—Employment Taxes

CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT

SUBCHAPTER A—TAX ON EMPLOYEES

SEC. 3101. RATE OF TAX.

Retirement

(a) ~~Old Age~~, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages received during the calendar year 1966, the rate shall be 3.85 percent;

(2) with respect to wages received during the calendar years 1967 and 1968, the rate shall be 3.9 percent;

4.5 — (3) with respect to wages received during the calendar years 1969, 1970, 1971, and 1972, the rate shall be 4.4 percent; and

5.0 — (4) with respect to wages received after December 31, 1972, the rate shall be 4.85 percent.

\$108(a)*

* * * * *

SUBCHAPTER B—TAX ON EMPLOYERS

SEC. 3111. RATE OF TAX.

Retirement

(a) ~~Old Age~~, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

(1) with respect to wages paid during the calendar year 1966, the rate shall be 3.85 percent;

(2) with respect to wages paid during the calendar years 1967 and 1968, the rate shall be 3.9 percent;

4.5 — (3) with respect to wages paid during the calendar years 1969, 1970, 1971, and 1972, the rate shall be 4.4 percent; and

5.0 — (4) with respect to wages paid after December 31, 1972, the rate shall be 4.85 percent.

\$108(b)*

* * * * *

*Applicable only with respect to remuneration paid after December 31, 1968 (sec. 108(d)).

SUBCHAPTER C—GENERAL PROVISIONS

Sec. 3121. Definitions.....	
Sec. 3122. Federal service.....	
Sec. 3123. Deductions as constructive payments.....	
Sec. 3124. Estimate of revenue reduction.....	
Sec. 3125. Returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia "	
Sec. 3126. Short title.....	

SEC. 3121. DEFINITIONS.

(a) **WAGES.**—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

- (1) that part of the remuneration which after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to ~~\$6,600~~ ^{\$7800} with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to ~~\$6,600~~ ^{\$7800} to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

* * * * *

(8) (A) remuneration paid in any medium other than cash for agricultural labor;

- (B) cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (i) the cash remuneration paid in such year by the employer to the employee for such labor is ~~\$150~~ ^{\$50} or more, or (ii) the employee performs agricultural labor for the employer on ~~20~~ ¹⁰ days or more during such year for cash remuneration computed on a time basis;

* * * * *

*Applicable only with respect to remuneration paid after December 1967 (sec. 107(c)).

**With respect to remuneration paid after 1970, \$7800 is replaced by \$9000 (sec. 107(b)(2)(B)).

***With respect to remuneration paid after 1973, \$9000 is replaced by \$10,800 (sec. 107(b)(2)(C)).

****Applicable with respect to remuneration paid after December 1967 (sec. 115(d)).

(b) **EMPLOYMENT.**—For purposes of this chapter, the term “employment” means any service performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (h)); except that, in the case of service performed after 1954, such term shall not include—

* * * * *

(17) service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

§110(a)(2)*

17 ~~✓~~ (18) service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a non-immigrant alien admitted to Guam pursuant to section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)); or

18 ~~✓~~ (19) service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be.

* * * * *

(d) **EMPLOYEE.**—For purposes of this chapter, the term “employee” means—

(1) any officer of a corporation; or
(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) any individual (other than an individual who is an employee under paragraph (1) or (2)) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry dry or dry-cleaning services, for his principal;

(B) as a full-time insurance salesman;

*Applicable with respect to services performed on or after the first day of the calendar quarter commencing after date of enactment (sec. 110(e)(2)).

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed; *or*

§117(b)(1)*

(4) any individual who performs services for remuneration (whether on a share basis or any other basis) as an officer or member of the crew of a vessel while it is engaged in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including services performed by any such individual as an ordinary incident to any such activity); except that an individual shall not be included in the term 'employee' under the provisions of this paragraph if, pursuant to the provisions of subsection (r), any officer or member of the crew of such vessel is deemed to be his employee; or

(5) any individual who performs services for remuneration in the loading or unloading of the contents of a truck, truck or tractor trailer, or similar conveyance.

* * * * *

*Applicable with respect to remuneration paid after December 31, 1967, for services performed after such date (sec. 117(b)(3)).

(q) TIPS INCLUDED FOR EMPLOYEE TAXES.—For purposes of this chapter other than for purposes of the taxes imposed by section 3111, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.

(r) OWNERS AND LESSEES OF VESSELS.—For purposes of this chapter an individual who is an employee under the provisions of subsection (d) (4) shall be deemed to be the employee of the owner of the vessel on or in connection with which his services are performed except that if such vessel has been chartered or leased by the owner and the owner has no interest of any kind in the fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life caught, taken, harvested, cultivated, or farmed by such vessel, or in the proceeds thereof, such individual shall be deemed to be the employee of the charterer or lessee of such vessel. If by reason of the preceding sentence an individual is deemed to be the employee of more than one charterer or lessee, and one or more (but less than all) of such charterers or lessees are not officers or members of the crew of such vessel, such individual shall be deemed to be the employee of each of the charterers or lessees who is not an officer or member of the crew of such vessel.

§117(b)(2)*

(s) TRUCK LOADERS AND UNLOADERS.—For purposes of this chapter an individual who is an employee under the provisions of subsection (d) (5) shall be deemed to be the employee of the driver in charge of the truck or other conveyance in connection with which his service is performed, except that if such driver is the employee of another person

*Applicable with respect to remuneration paid after December 31, 1967, for services performed after such date (sec. 117(b)(3)).

in respect of services he performs as the driver of such truck or other conveyance, such individual shall be deemed to be the employee of such other person. However, the preceding sentence shall not apply with respect to an individual if it can be shown by such driver or his employer that a person other than such driver or employer has acknowledged in writing on a form to be prescribed by the Secretary or his delegate that he has the responsibility for collecting and paying the taxes imposed by this chapter with respect to such loading or unloading services performed by such individual, in which event the person who has made such acknowledgment in writing shall be deemed to be the employer of such individual.

SEC. 3122. FEDERAL SERVICE.

In the case of the taxes imposed by this chapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 3121(p) are applicable, the determination whether an individual has performed service which constitutes employment as defined in section 3121(b), the determination of the amount of remuneration for such service which constitutes wages as defined in section 3121(a), and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the ~~\$6,600~~ limitation in section 3121(a)(1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121(a)(1). Payments of the tax imposed under section 3111 with respect to service, performed by an individual as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, shall be made from appropriations available for the pay

\$7800

§107(b)(3)(A)*
§107(b)(3)(B)**
§107(b)(3)(C)***

*Applicable only with respect to remuneration paid after December 1967 (sec. 107(c)).

**With respect to remuneration paid after 1970, \$7800 is replaced by \$9000 (sec. 107(b)(3)(B)).

***With respect to remuneration paid after 1973, \$9000 is replaced by \$10,000 (sec. 107(b)(3)(C)).

of members of such uniformed service. The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this section shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of this section the Secretary shall be deemed to be the head of such instrumentality.

* * * *

SEC. 3125. RETURNS IN THE CASE OF GOVERNMENTAL EMPLOYEES IN GUAM, AMERICAN SAMOA, AND THE DISTRICT OF COLUMBIA

(a) GUAM.—The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of Guam or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of Guam or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the ~~\$6,600~~ limitation in section 3121(a)(1).

\$7800

§107(b)(4)(A)*

(b) AMERICAN SAMOA.—The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of American Samoa or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of American Samoa or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the ~~\$6,600~~ limitation in section 3121(a)(1).

\$7800

§107(b)(4)(B)**

§107(b)(4)(C)***

§107(b)(4)(A)*

*Applicable only with respect to remuneration paid after December 1967 (sec. 107(c)).

**With respect to remuneration paid after 1970, \$7800 is replaced by \$9000 (sec. 107(b)(4)(B)).

***With respect to remuneration paid after 1973, \$9000 is replaced by \$10,800 (sec. 107(b)(4)(C)).

(c) DISTRICT OF COLUMBIA.—In the case of the taxes imposed by this chapter with respect to service performed in the employ of the District of Columbia or in the employ of any instrumentality which is wholly owned thereby, the return and payment of the taxes may be made by the Commissioners of the District of Columbia or by such agents as they may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the

§107(b)(4)(A)*

§107(b)(4)(B)**

§107(b)(4)(C)***

~~\$6,000~~ limitation in section 3121(a)(1).

\$7800

Chapter 24.—COLLECTION OF INCOME TAX AT
SOURCE ON WAGES

§ 3401. Definitions.

(c) Employee.

For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes ~~an officer of a corporation.~~

§117(c)(1)****

the persons named in section 3121(d), except that paragraph (3) shall not apply.

*Applicable only with respect to remuneration paid after December 1967 (sec. 107(c)).

**With respect to remuneration paid after 1970, \$7800 is replaced by \$9000 (sec. 107(b)(4)(B)).

***With respect to remuneration paid after 1973, \$9000 is replaced by \$10,800 (sec. 107(b)(4)(C)).

****Applicable with respect to remuneration paid after December 31, 1967 (sec. 117(c)(2)).

CHAPTER 65--ABATEMENT CREDITS AND REFUNDS

* * * * *

SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN EMPLOYMENT TAXES.

(c) SPECIAL REFUNDS.—

(1) IN GENERAL.—If by reason of any employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed \$3,600, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed \$4,200, or (B) during any calendar year after the calendar year 1958 and prior to the calendar year 1966, the wages received by him during such year exceed \$4,800 or (C) during any calendar year after the calendar year 1965, the wages received by him during such year exceed \$6,600,

prior to the
calendar year
1966

§107(b)(5)(A)*

or (D) during any calendar year after the calendar year 1967 and prior to the calendar year 1971,

the wages received by him during such year exceed

§107(b)(5)(B)*

\$7,800, or (E) during any calendar year after the

calendar year 1970 and prior to the calendar year 1974,

the wages received by him during such year exceed

\$9,000, or (F) during any calendar year after the

calendar year 1973, the wages received by him during

such year exceed \$10,800,

the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first \$4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first \$4,800 of such wages received in such calendar year after 1958 and before 1966, or which exceeds the tax with respect to the first \$6,600 of such wages received in such calendar year after 1965

*Applicable only with respect to remuneration paid after December 1967 (sec. 107(c)).

§107(b)(5)(C)*

and before 1968, or which exceeds the tax with respect to the first \$7,800 of such wages received in such calendar year after 1967 and before 1971, or which exceeds the tax with respect to the first \$9,000 of such wages received in such calendar year after 1970 and before 1974, or which exceeds the tax with respect to the first \$10,800 after 1973.

(2) APPLICABILITY IN CASE OF FEDERAL AND STATE EMPLOYEES, EMPLOYEES OF CERTAIN FOREIGN CORPORATIONS, AND GOVERNMENTAL EMPLOYEES IN GUAM, AMERICAN SAMOA, AND THE DISTRICT OF COLUMBIA. —

(A) FEDERAL EMPLOYEES.—In the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed \$3,600 for the calendar year 1951, 1952, 1953, or 1954, \$4,200 for the calendar year 1955, 1956, 1957, or 1958, \$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, or \$6,600 for any calendar year after 1965

\$6,600 for the calendar year 1966 or 1967, or \$7,800 for the calendar year 1968, 1969, or 1970, or \$9,000 for the calendar year 1971, 1972, or 1973, or \$10,800 for any calendar year after 1973

, determined by each such head or agent as constituting wages paid to an employee.

§107(b)(6)*

*Applicable only with respect to remuneration paid after December 1967 (sec. 107(c)).

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